



**TUALATIN CITY COUNCIL
AND
TUALATIN DEVELOPMENT COMMISSION**
Monday, July 14, 2008

City Council Chambers
18880 SW Martinazzi Avenue, Tualatin, Oregon

WORK SESSION begins at 5:30 p.m.

REGULAR MEETING begins at 7:00 p.m.

Mayor Lou Ogden

**Council President Ed Truax
Councilor Chris Barhyte
Councilor Monique Beikman**

**Councilor Bob Boryska
Councilor Jay Harris
Councilor Donna Maddux**

WELCOME! By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda – Item C, following Presentations, at which time citizens may address the Council concerning any item not on the agenda, with each speaker limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the world wide web at www.ci.tualatin.or.us, at the Library located at 8380 SW Nyberg Street, and are also on file in the Office of the City Manager for public inspection. Any person who has any question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011 (voice) or 503.692.0574 (TDD). Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised “live” on the day of the meeting on Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at www.tvctv.org.

Your City government welcomes your interest and hopes you will attend the City of Tualatin City Council meetings often.

- SEE ATTACHED AGENDA -

PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A “legislative” public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. The Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. The Council then asks questions of staff, the applicant or any member of the public who testified.
5. When the Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either approve, deny, or “continue” the public hearing.

PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A “quasi-judicial” public hearing is typically held for annexations, planning district changes, variances, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. The Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report to the Council.
3. Public testimony is taken:
 - a) In support of the application
 - b) In opposition or neutral
4. The Council then asks questions of staff, the applicant or any member of the public who testified.
5. When the Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either approve, approve with conditions or deny the application, or “continue” the public hearing.

TIME LIMITS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 10 minutes**, subject to the right of the Mayor to amend or waive the time limits.

EXECUTIVE SESSION INFORMATION

Executive session is a portion of the Council meeting that is closed to the public to allow the Council to discuss certain confidential matters. No decisions are made in Executive Session. The City Council must return to the public session before taking final action.

The City Council may go into Executive Session under the following statutory provisions to consider or discuss: *ORS 192.660(2)(a)* the employment of personnel; *ORS 192.660(2)(b)* the dismissal or discipline of personnel; *ORS 192.660(2)(d)* labor relations; *ORS 192.660(2)(e)* real property transactions; *ORS 192.660(2)(f)* non-public information or records; *ORS 192.660(2)(g)* matters of commerce in which the Council is in competition with other governing bodies; *ORS 192.660(2)(h)* current and pending litigation issues; *ORS 192.660(2)(i)* employee performance; *ORS 192.660(2)(j)* investments; or *ORS 192.660(2)(m)* security issues. **All discussions within this session are confidential.** Therefore, nothing from this meeting may be disclosed by those present. News media representatives are allowed to attend this session (unless it involves labor relations), but shall not disclose any information discussed during this session.



A. CALL TO ORDER

Pledge of Allegiance

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Graffiti Apology – Eduardo Pliego-Ramirez
2. Tualatin Youth Advisory Council Update
3. Swearing-In of New Reserve Police Officers – *Kendall Heinrich, Evelena Powlison, & Bret Rudolph*
4. Library Project Update

C. CITIZEN COMMENTS

This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

D. CONSENT AGENDA (Item Nos. 1 – 8)

Page #

The Consent Agenda will be enacted with one vote. The Mayor will first ask the staff, the public and the Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under "Items Removed from the Consent Agenda." At that time, any member of the audience may comment on any item pulled from the Consent Agenda. The entire Consent Agenda, with the exception of items removed to be discussed under "Items Removed from the Consent Agenda," is then voted upon by roll call under one motion.

1. Approval of the Minutes for the Meeting of April 28, 2008 and May 27, 2008..... 5
2. Citizen Involvement Committee Appointments29
3. Approval of Change of Ownership Liquor License Application for La Barca Guerrero.....30
4. Resolution No. 4809-08 Accepting Deed of Dedication and Easements Associated.....32
With the SW Herman Road Improvement Project
(Walgraeve Property)
5. Resolution No. 4810-08 Accepting Applications for Bancroft Bonding Connection47
Fees and Authorizing the City Recorder to Enter Certain
Real Properties Within the City of Tualatin on SW
Killarney Lane Onto the City of Tualatin Lien Docket
6. Resolution No. 4811-08 Accepting Public Improvements for a New Domestic Water51
Service Connection at 19745 SW 65th Avenue
7. Resolution No. 4812-08 Accepting Public Improvements for a Replacement.....53
Driveway at 20740 SW 90th Avenue
8. Resolution No. 4813-08 Accepting Public Improvements for American Classic55
Deck and Fence

E. PUBLIC HEARINGS – Legislative or Other

- 1. An Ordinance Relating to Floodplain Management; Amending Floodplain District 57
Definitions and Provisions; and Amending TDC 70.020, 70.030-70.040, 70.160 and
70.180 (PTA-08-02)

F. PUBLIC HEARINGS – Quasi-Judicial

- 1. Conditional Use Permit for Building Materials and Supplies, Warehousing and 73
Wholesaling, and Home Improvement Materials and Supplies Retail; TDC Section
61.030(1) (CUP-08-02)

G. GENERAL BUSINESS (Item Nos. 1 – 2)

- 1. Fiscal Year 2007/08 Tualatin Tomorrow Vision Implementation Committee Annual.....112
Report.
- 2. Ordinance No. 1264-08 Relating to Rental Housing Maintenance Standards;.....120
Establishing a Rental Unit Maintenance Fee; Adding a
New Chapter 6-13 to the Tualatin Municipal Code and
Providing an Effective Date
[CONTINUED from June 23, 2008]

H. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

I. COMMUNICATIONS FROM COUNCILORS

J. EXECUTIVE SESSION

K. ADJOURNMENT



STAFF REPORT


CITY OF TUALATIN

Approved By Tualatin City Council

Date 7-14-08

Recording Secretary M. Smith

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager 

DATE: July 14, 2008

SUBJECT: APPROVAL OF THE MINUTES FOR THE MEETINGS OF
APRIL 28, 2008 AND MAY 27, 2008

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the City Council Meetings of April 28, 2008 and May 27, 2008.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

FINANCIAL IMPLICATIONS:

There are no financial impacts associated with this item.

Attachments: Minutes



TUALATIN CITY COUNCIL WORK SESSION MINUTES OF APRIL 28, 2008

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Kent Barker, Chief of Police; Paul Hennon, Community Services Director; Dan Boss, Operations Director;; Don Hudson, Finance Director; Kaaren Hofmann, Civil Engineer; Stephen Ngai, Engineering Technician; Carina Christensen, Assistant to the City Manager; Eric Underwood, Development Coordinator; Will Harper, Associate Planner; Carl Switzer, Parks & Recreation Coordinator; Paul Hennon, Community Services Director; Ginny Kirby, Recording Secretary

ABSENT: Donna Maddux * [*denotes excused]

*[Unless otherwise noted, **MOTION CARRIED** indicates all in favor.]*

A. CALL TO ORDER

Mayor Pro Tem Truax called the meeting to order at 5:09 p.m.
Mayor Ogden arrived at 5:15 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Utility Underground Master Plan

Mike McKillip, City Engineer, and Stephen Ngai, Engineering Technician. This was a topic that came from the February retreat. Mr. McKillip and Mr. Ngai gave a PowerPoint presentation that showed projects where undergrounding of overhead utilities had been done as part of the project. Twenty-nine miles of streets in the City currently have overhead utilities. The cost to underground the utilities is approximately \$425/lineal foot (based on costs paid for the downtown project). It would cost approximately \$65 million (based on 2009 estimates) to do all undergrounding at once.

There are two processes used to underground existing overhead utilities: Normal conversion and Forced conversion. Normal conversion – utility companies are required to relocate when required by a public project. This process is called normal conversion and involves coordination between the City and utility companies to minimize impacts on the community. The City has an option to require the utility companies to underground when relocating. Forced conversion – the City can initiate by written order to the utility company. The City could direct the utility company to collect conversion costs from customers in the affected area or to all customers within the City's boundaries. The utility company has the responsibility to notify and obtain customer commitment for necessary utility facility changes on the customer's premises for underground facilities.

Where to go next - For the existing City lines, can leave in place; take advantage of forced conversion, or do as City-funded conversion. Urban Growth expansion areas that can be undergrounded include Tualatin-Wilsonville area, SW concept area, and the

Stafford Triangle area. Working undergrounding into planning for areas with fees, LIDs, forced conversion and bill, or change development requirements to required underground utilities.

Councilor Harris commented that Tigard's undergrounding program is having limited success; many areas in overhead utilities, fees do not cover the costs. It is a very straightforward process. It was suggested that Tualatin have a "fee in lieu of" fee. Discussion followed.

Mayor Ogden asked if there are any substantial projects expected in town within the next five years. McKillip pointed out the areas in town that may have new development in the next few years. Councilor Boryska asked if undergrounding would be something that would happen as part of the Trammell Crow project on Lower Boones Ferry Road; Mr. McKillip said he did not believe that was a piece of that project. Mayor Ogden noted that the cost to development could be an issue. Discussion continued. The question was raised if Tualatin required the undergrounding, would this potentially "force" business to go to another city to build. Councilor Harris suggested running a few scenarios with the fee and see what the costs would be.

Staff was requested to draft an ordinance and bring back to a future work session for further discussion.

Legislative Program Proposal

Carina Christensen, Assistant to the City Manager. Ms. Christensen stated that the purpose today is to discuss and provide direction on the proposed legislative program and come back to Council at a future date to discuss legislative priorities. She gave a PowerPoint presentation.

Legislative assembly convenes every two years, currently, in odd-numbered years. A possibility exists that a shorter Supplemental Session will be implemented. The League of Oregon Cities (LOC) is a statewide association of cities with membership open to all incorporated cities, the City of Tualatin is a member. The LOC is an advocate for City government and officials. LOC has nine policy committees that develop recommendations to the LOC Board of Directors on legislative policies and priorities for actions. The recommendations are compiled as a report and the LOC uses the report to lobby the state legislature.

Tualatin Legislative Priorities are: 1) Transportation funding, 2) Protection of urban renewal, 3) Protection of local control, 4) Labor – protecting City's rights, 5) Land Use - Big look task force and unincorporated areas, and 6) Quality of Life – parking and parks.

Ms. Christensen reviewed other City models, which included Tigard, Bend, and Cottage Grove, Oregon; Gardner, Kansas; Lynwood, California; and Clemson, South Carolina. In summary, other city models include: legislative agendas/platforms, city staff legislative liaisons, luncheons, city hall days with neighboring cities, writing to legislators, partnering with local universities, attending National League of Cities conference, and contract lobbyists.

Ms. Christensen outlined the Legislative Program Proposal for Tualatin:

October 2008

Council work session to discuss legislative agenda

November 2008

Council adopts legislative agenda

December 2008

Invite legislators to Council Meeting/Work session to discuss Tualatin's legislative agenda

January-June 2009

City staff liaison monitors session and provides regular updates to Council

Local representative (Devlin/Bruun) attends Council meeting/Work session

At least once during legislative session to provide a personal update to the City

Off-Year

October 2009-April 2010

Hold informal events with legislators to develop relationships/networking

Ms. Christensen stated, in summary, that the program aims to respond to the needs of the City, Council, and staff; it provides flexibility yet structure; and other options exist if Council wishes (City Hall days, periodic luncheons, etc). Councilor Truax commented that this had been discussed in the past; he is happy to see we are now going to move ahead with a formal program. Discussion followed regarding how often issues have arisen that the City should be ahead of and that increased communication could be beneficial. Councilor Truax said his vision would include a staff person who keeps an eye on all issues and comes to Council work sessions with updates. Councilor Beikman said she liked what was presented in the memo to Council; it is a very good start and hopefully we will be going above and beyond in the future. Mayor Ogden reiterated he was excited about getting this program started.

It was stated that staff is moving in the right direction; come back to Council in October with an update.

Rental Housing Standards Ordinance

Brenda Braden, City Attorney, stated that the program proposed is similar to that of the City of Corvallis, which is complaint driven. The other issue to determine is timing; would January 2009 be a reasonable time frame to make an Ordinance effective. Both landlords and tenants need to be educated if this program is approved. Ms. Braden went on to say that the way most language is written, a tenant must approach a landlord first with their issue(s) and there is a 10-day period to remedy said issue(s), before going to the City. Corvallis does this and the process works well. It was clarified that the 10-day period must pass before a tenant can approach the City stating a landlord is non-responsive.

Discussion followed. Councilor Barhyte inquired if it would be possible to put some outside standards in the Ordinance. It was noted that outside standards will be addressed at a later date regarding owner occupied residences. Councilor Harris asked if staff could look into items such as electrical issues, hot water, and make sure all appliances are in good working order. It was asked if Police were inside a residence on another issue and observe an issue covered under this Ordinance, can the officer address this. Ms. Braden said yes, if they are already inside for an issue and do observe a problem, they can initiate a complaint to the landlord. Mayor Ogden asked if there was anything beyond a fine; can it be closed down. Brief discussion followed.

Councilor Barhyte questioned if the \$10/year fee would be enough to cover the program, as the City has approximately 6500 rental units. At this point it has not been determined exactly who will handle this; Ms. Lombos noted it would be a cooperative effort between Police, Community Development, and the Building Division.

November 2008 Bond Measure Update

Paul Hennon, Community Services Director.

Mr. Hennon noted he was here tonight to address potential program changes; a handout was distributed to Council. Mr. Hennon gave an overview of the proposed changes:

Sports Fields: Mr. Hennon spoke with the Tualatin Organization of Sports. He posed the question to them - would they like to substitute a sports complex of 11 acres for all joint use at schools and parks. They don't favor it first; they want more fields available faster. They are in favor of upgrading facilities at schools and parks, as those will come on-line quicker.

The Survey will ask about a sports complex. It was noted that the dog park is rolled into Community Park – north area. Mr. Hennon said the survey question would be posed something like – would you like a Recreation Center that includes a sports complex (with artificial turf). Discussion followed regarding shared use of fields vs. owning our own field and not working around other group and school schedules.

Trail improvements: No changes asked for in this portion. Please note there is a typo - should read 65th Avenue to Community Park.

Park improvements: Added Community Gardens (~\$52,000).

Community Center: The rock climbing wall is removed, Ms. Lombos said a few options had been removed to keep it at the 73,000 square feet that Council requested.

Costs (listed on handout): estimated total cost is \$52.288 million; approximately \$1.19/thousand assessed value. Operating: \$1.7 million; Annual fee \$180/\$15 month.

Maintenance costs: Mr. Hennon said the facilities fee would come on-line in a staggered fashion. Fee could become effective now and you could “bank” the money. Brief discussion followed.

C. CITIZEN COMMENTS

Not applicable.

D. CONSENT AGENDA

The Consent Agenda was reviewed by the Council. Ms. Lombos stated that Item B.2. Presentation by the Tualatin Arts Advisory Committee was being removed from the Agenda; along with Item D.2. 2007 Annual Report of the Tualatin Arts Advisory Committee. These two items will be rescheduled at a later Council meeting. Ms. Lombos noted an item will be added in B. Presentations – a New Employee Introduction by Dan Boss.

E. PUBLIC HEARINGS - Legislative or Other
Not applicable.

F. PUBLIC HEARINGS - Quasi-Judicial
Not applicable.

G. GENERAL BUSINESS
None.

H. ITEMS REMOVED FROM CONSENT AGENDA
Not applicable.

I. COMMUNICATIONS FROM COUNCILORS
None.

J. EXECUTIVE SESSION
None.

The meeting was recessed at 7:00 p.m. to be continued after the end of the regular Council meeting.

The work session reconvened at 9:49 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS [continued from earlier work session discussion]

Oxford House

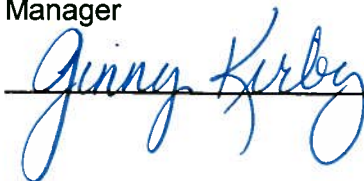
Ms. Lombos presented the memo regarding Oxford House on SW Seminole Trail, Tualatin. They are proposing 6 to 8 adults will live in the house. On May 6, 2008, at 6:30 p.m., the City will hold a meeting at the Heritage House to discuss what an Oxford House is and how everyone can be good neighbors. Councilor Harris noted that, in his knowledge, they are a great organization. It was noted that typically 75% to 80% of the occupants are not able to drive, so the houses are often close to public transportation.

K. ADJOURNMENT

Meeting adjourned at 9:56 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, reading "Ginny Kirby", is written over a horizontal line.



City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council

Date 7-14-08

Recording Secretary M. Smith

TUALATIN CITY COUNCIL MEETING MINUTES OF APRIL 28, 2008

PRESENT: Mayor Ogden; Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Kent Barker, Chief of Police; Paul Hennon, Community Services Director; Dan Boss, Operations Director; Don Hudson, Finance Director; Kaaren Hofmann, Civil Engineer; Carina Christensen, Assistant to the City Manager; Eric Underwood, Development Coordinator; Will Harper, Associate Planner; Cindy Hahn, Assistant Planner; Ginny Kirby, Recording Secretary

ABSENT: Donna Maddux * [* denotes excused]

*[Unless otherwise noted, **MOTION CARRIED** indicates all in favor.]*

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 7:04 p.m.
Councilor Barhyte lead the pledge of allegiance.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Proclamation Declaring May 2008 "*Historic Preservation Month*" in the City of Tualatin
Councilor Harris read the proclamation.

2. Presentation by the Tualatin Arts Advisory Committee
[item removed in its entirety from Agenda – to be scheduled at a later date]

3. Chamber of Commerce Update – *Carla Thaler*
Ms. Thaler noted that she will be making a monthly appearance at the Council meetings to keep everyone updated on Chamber activities.

Ms. Thaler announced the theme of the 2008 Crawfish Festival: "Crawfish of the Caribbean". The festival events begin Friday, August 8 and conclude on Sunday, August 10. It was noted that there will be a new Teen Scene this year featuring two professional skateboarders, basketball, hip hop music, and more! For more information, please check the website: www.crawfishfestival.com.

4. Tualatin Tomorrow "The Vision Continues" Presentation – *Frank Bubenik and Candace Kelley, Committee Co-Chairs*
Mr. Bubenik began with a PowerPoint presentation. He noted that the annual "The Vision Continues" event coming up on Thursday, May 8, 2008. Mr. Bubenik gave a brief background to explain how we got to where we are now. This is the Vision Committee's first large event. He reiterated that this is a 20-yr action plan, it reflects

the Vision, which is a statement of a preferred future in the year 2030. He noted that the Vision Committee is here to help Partners implement their "actions", not to admonish. Mr. Bubenik clarified that a Partner is an organization that takes responsibility to shepherd an action through to completion.

Ms. Kelley noted that many of the partners will be in attendance at the May 8 event. They will be speaking about their actions and to interact with attendees and respond to questions and take suggestions. It was reiterated that the Annual Event "The Vision Continues" is set for May 8, 2008, 5:30 to 7:30 p.m., at the Legacy Meridian Park Hospital Education Center. There are no formal presentations, everyone is welcome at anytime during the event. You can also get more information from staff by contacting Doug Rux, Community Development Director, drux@ci.tualatin.or.us. Efforts to get the word out include: lawn signs, brochure (both English and Spanish), banner, an advertisement in *The Times*, may be articles in both *The Oregonian* and *The Times*, and email.

Mayor Ogden thanked Mr. Bubenik and Ms. Kelley for all their hard work thus far and all the work of the volunteers and applauded them for their efforts.

5. New Employee Introduction – *Charlie Rollins* - - Dan Boss
Dan Boss, Operations Director, introduced Charlie Rollins. Charlie is the new Fleet Technician in the Maintenance Division of Operations.

[Item G.2 moved to B. Presentations, Announcements, Special Reports during work session]

G.2.Resolution No. 4781-08 Approving Draft Plan for Washington County Use of Deadly Physical Force by Police Officers

Sheriff Rob Gordon and Pete Morris, Washington County Sheriff's Office. Sheriff Gordon gave some background; he noted that SB 111 goes back several legislative sessions; largely driven by communities in Multnomah County. It addresses how to prepare officers prior to an event, for the event, and after the event. SB 111 states all counties will have a six member Planning Authority, which will consist of: non-management, Chief of Police, a public member, an Oregon State Police officer, a sheriff, and a District Attorney.

Sheriff Gordon summarized the six major portions of the plan: Training, education, and outreach; Immediate aftermath; Investigation; District Attorney discretion; Reporting and debriefing; and The plan.

Mayor Ogden asked what would change in the City of Tualatin's operations, other than the Police Chief being involved on the committee. Chief Barker noted that the City currently falls within the policies.

MOTION by Councilor Truax to adopt the resolution; SECONDED by Councilor Barhyte. MOTION CARRIED.

C. CITIZEN COMMENTS

Kathy Newcomb, SW Cheyenne Way, Tualatin. Ms. Newcomb distributed a handout regarding cryptosporidium (information taken from an American Water Works Association

publication). Ms. Newcomb commented that the City's water quality report was a well done report. She has been in contact with Portland Water Bureau and they are going to check with the firm that does their testing regarding this particular testing.

Frank Bubenik, SW 107th Avenue, Tualatin. Mr. Bubenik wanted to let Council know what is happening with the movement to start a Library Foundation. It would initially begin as part of Friends of the Library, due to the Friends non-profit status. They are hoping the City will give permission to the Friends endowment plan to have a silent auction to help jump-start the Foundation seed money.

He noted that people can speak with Marge Congress or Darrel Condra, Library Manager, regarding further information on the Foundation. Councilor Truax suggested a possible private Friends event a night or two prior to the Library Grand opening.

Scott Petersen, SW 110th Place, Tualatin. He just wanted to say thank you to Council and staff.

D. CONSENT AGENDA

MOTION by Councilor Truax, SECONDED by Councilor Boryska to adopt the Consent Agenda as read and amended:

1. Approval of Minutes for the Special Work Session of February 26, 2008, the Meeting of April 14, 2008
2. 2007 Annual Report of the Tualatin Arts Advisory Committee
[removed from Agenda in its entirety]
3. Resolution No. 4777-08 Dedicating Deeds of Dedication and Easements Associated with the SW Herman Road Improvement Project (City of Tualatin)
4. Resolution No. 4778-08 Accepting Deed of Dedication and Easement Associated with the SW Herman Road Improvement Project (Lumber Family Company, LLC)
5. Resolution No. 4779-08 Authorizing an Agreement Related to Existing Pole Signs with Tualatin Group LLC for the Shoppes at Bridgeport Project
6. Resolution No. 4780-08 Granting a Conditional Use Permit for a Watchman's Dwelling for a Self-Storage Facility in the General Manufacturing (MG) and Light Manufacturing (ML) Planning Districts at 18270 SW Pacific Highway (CUP 08-01)

MOTION CARRIED.

E. PUBLIC HEARINGS - Legislative or Other**1. Architectural Review Standards for Detached Single-Family Dwellings – PTA 06-05**

Cindy Hahn, Assistant Planner, entered the entire staff report and attachments into the record. This Plan Text Amendment (PTA) amends the code to add standards for single family dwellings. One outstanding issue from the February 11, 2008 work session was applicability; Council requested staff take this to TPAC, which was done. TPAC recommended that the standards apply to all new single family dwellings and to additions/alterations/remodels to an existing house when they result in 35% or more expansion of the building footprint or new 2nd or higher story, or a 35% or more alteration of an existing wall plane, unless side yard to side yard.

Two levels of review are proposed: Level 1 – clear objective standards, and a Level 2 – discretionary. Level 1 is the menu-type approach. Each elevation of the dwelling will have a percentage of window coverage required, a number of roof design elements required, and a number of wall design elements. Level 2 – five criteria to be met. The hope is that most will fit within the Level 1 review. Fees would be \$50 fee for Level 1 review; \$700 for Level 2 review; this is not part of the current proposed ordinance.

Staff is asking Council to accept the staff report and attachments and direct staff to prepare an ordinance. Also, recommending staff bring back Level 1 and Level 2 fee schedule to be adopted by resolution.

Ken Gertz, Gertz Fine Homes and Tualatin resident. Mr. Gertz noted there will probably be roughly five styles of homes that will automatically kick into Level 2 review as they just don't fit the parameters; such as Salt Box, Cape Cod, flat roof, etc. Mayor Ogden noted that if those styles do, at some point in the future, become the popular style home, that will be a time to revisit the ordinance and make possible modifications.

PROPOSERS - None.

OPPOSERS – None.

COUNCIL DISCUSSION

Councilor Harris asked if Level 2 review is appealable to Council if you don't agree with staff review. He stated he felt the purpose of this Ordinance is not for the City to control architectural features, but to set a minimum standard.

MOTION by Councilor Harris, SECONDED by Councilor Boryska to accept the staff report and attachments and recommend staff prepare an ordinance adopting architectural review standards for single family dwellings. **MOTION CARRIED.**

2. Proposed Renaming of a Portion of SW 80th Avenue to SW Martinazzi Avenue

Ordinance No. 1259-08 Renaming a Portion of SW 80th Avenue to SW Martinazzi Avenue

Mike McKillip, City Engineer, noted this is a public hearing to rename a portion of SW 80th to SW Martinazzi Avenue. The portion covers the piece of roadway from in front

of the Council Building south to SW Mohawk Street.

MOTION by Councilor Truax, SECONDED by Bob Boryska for a first reading by title only. MOTION by Councilor Truax, SECONDED by Bob Boryska for a second reading by title only. MOTION CARRIED. The poll was unanimous [*Maddux absent*]. MOTION by Councilor Truax, SECONDED by Councilor Boryska to adopt the ordinance. MOTION CARRIED.

F. PUBLIC HEARINGS - Quasi-Judicial

None.

G. GENERAL BUSINESS

1. Council Direction on City of Tualatin Water Management and Conservation Plan. City Engineer Mike McKillip gave a PowerPoint presentation. Mr. McKillip noted this plan is being prepared in accordance with the Tualatin-Portland Regional Water Sales Agreement; it is based on the 2005 Water Master Plan.

The City is committed to purchase 4.4 million gals/day; currently the City uses more than that, so not in any danger of paying for water we don't use. Currently, approximately 43% of our water is for commercial/industrial use; approximately 34% for single family, 18% for multi-family, 3% for institutional, and 2% for municipal use.

The existing conservation program consists of:

- * Participation in Regional Water Providers Consortium (RWPC),
- * City newsletter articles,
- * Handouts from RWPC and other sources regarding conservation,
- * Providing handouts at events such as the Crawfish Festival, and
- * Assist customers who think they may have leaks.

Proposed new conservation plan:

- * Budget has been increased to provide a larger presence

Potential water conservation efforts include:

- * Review and revise rate structure,
- * Rebate programs (low flow toilets, energy efficient appliances, etc.)

Mr. McKillip said he is looking for comments so staff knows if they are on the right track. Councilor Harris asked how we could potentially track if the efforts being made are having a long term effect and making a difference. Councilor Truax commented that we could measure our per capita use against that of City of Portland. Also, possibly have a staff person audit large water users, encourage drought resistant landscaping, and research what it would take to keep the parks grass useable vs. lush.

Discussion followed regarding conservation methods. It was suggested some conservation measures be aimed at drought resistant landscaping, possibly address this particular issue in our code requirements. It was decided to adopt this current plan and then can come back at a later date with a more comprehensive approach.

Kathy Newcomb, SW Cheyenne Way, Tualatin. Ms. Newcomb stated water costs are going up 16%, as we are a high user. She feels we need to cut our peak use and promote aquifer storage and recovery. There isn't any danger of not using the 4.4 gallons/day. Ms. Newcomb feels we should look towards xeroscaping (low water use plants).

MOTION by Councilor Boryska, SECONDED by Councilor Harris to submit current plan and bring back more comprehensive plans at a future meeting. MOTION CARRIED.

2. Resolution No. _____ Approving Draft Plan for Washington County Use of Deadly Physical Force by Police Officers
[This item heard during B. Presentations, Announcements, Special Reports]

Mike McKillip, City Engineer, noted that the next presentation covers traffic control devices on the following three projects (G.2., G.3., and G.4.). Mr. McKillip stated that warrants are not met on these three projects for traffic control devices proposed; therefore, we need three decisions to be made.

3. Resolution No. 4782-08 Approving the Installation of a Traffic Signal at SW Herman Road and SW 118th Avenue

Kaaren Hofmann, Civil Engineer, gave a PowerPoint presentation. The Tualatin Development Commission has budgeted for this signal. The railroad crossing is currently unprotected, only stop signs exist as traffic control. There have been 13 crashes at this intersection in the last six years. A signal would provide protected turning movements. Ms. Hofmann said that installing a signal at this time, before meeting warrants, would improve safety at this intersection. Staff's recommendation is for Council to approve this resolution. This will be funded by the Leveton Tax Increment District.

MOTION by Councilor Beikman, SECONDED by Councilor Harris to approve and adopt the resolution. MOTION CARRIED.

4. Resolution No. 4783-08 Authorizing Installation of Stop Signs on SW 108th Avenue at SW Ibach Street

Kaaren Hofmann, Civil Engineer, gave a PowerPoint presentation. The current project will improve SW 108th Avenue from SW Willow to SW Nelson. An issue that came up was the potential increased speeds and a holistic approach to improve this roadway. This would install stop signs on both sides of the street. Ms. Hofmann noted that stop signs are not recommended to control speed, and it can increase speed as motorists pull away from a stop sign and increase the noise factor due to the stopping and starting.

This stop sign was originally proposed by concerned citizens that felt as road improvements were completed speeds would increase. It was reiterated that the Manual of Uniform Traffic Control Devices (MUTCD) states, as do many studies that have been done around the country, that stop signs do not decrease speeding problems. This location does meet the City's criteria for installation of stop signs; but not MUTCD warrants. Discussion followed.

Scott Petersen, SW 110th Place, Tualatin, stated he was in favor of the stop sign installation.

MOTION by Councilor Beikman; SECONDED by Councilor Barhyte to approve installation of stop signs and the adopt resolution. MOTION CARRIED.

5. Resolution No. 4784-08 Approving the Installation of Crosswalks on SW 108th Avenue Between SW Willow Street and SW Nelson Street

MOTION by Councilor Beikman; SECONDED Councilor Barhyte to approve installation of crosswalks and adopt the resolution. MOTION CARRIED.

H. ITEMS REMOVED FROM CONSENT AGENDA

No items were requested for removal from the Consent Agenda.

I. COMMUNICATIONS FROM COUNCILORS

None.

J. EXECUTIVE SESSION

Not applicable.

K. ADJOURNMENT

The meeting adjourned at 9:47 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, appearing to read "Ginny Kirby", is written over a horizontal line.



TUALATIN CITY COUNCIL WORK SESSION MINUTES OF MAY 27, 2008

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Kent Barker, Chief of Police; Don Hudson, Finance Director; Dan Boss, Operations Director; Eric Underwood, Development Coordinator; Carina Christensen, Assistant to the City Manager; Nancy McDonald, Human Resources Director; Paul Hennon, Community Services Director; Ginny Kirby, Recording Secretary

ABSENT: [*denotes excused]

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 4:15 p.m. and Council immediately went into Executive Session pursuant to ORS 192.660(2)(h) to discuss current and pending litigation.

A break was taken at 6:10 p.m.

The work session reconvened at 6:18 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Freeway Signs

Ms. Lombos noted that this item is on the Council meeting agenda this evening. The discussion now is an opportunity for staff to discuss the ordinance in depth. Will Harper, Associate Planner, noted that in January 2008 Council reviewed freeway oriented signs and asked staff to return with an ordinance that: 1) removes freeway oriented activity area signs from the Code, and 2) revises the definition of nonconforming.

Mr. Harper gave a PowerPoint presentation.

Freeway Oriented Activity (FOA) Area Signs - these were a big focus at the January meeting. The proposed amendment will remove FOA area and sign provisions from the Sign Code and any existing FOA signs will become nonconforming. Councilor Harris asked if, for example, some large entity such as Disneyland came to town wanting a very large sign, what could they do. Doug Rux, Community Development Director, noted that one avenue they could take would be to apply for a variance or possibly a Plan Text Amendment.

Nonconforming Signs (prior to 1982) provisions – the proposed amendment will revise the standards for nonconforming signs by: providing a more inclusive definition of

nonconforming signs; establishing that a change in use can result in a sign becoming nonconforming; and encouraging the replacement or scaling down of existing large and tall pole signs to be reduced in size, while retaining a nonconforming sign status.

Mr. Harper then reviewed policy considerations related to PTA 08-01, which addressed how the proposed amendment accomplished Council's intent and would provide nonconforming sign standards that encourage property owners to reduce the height and size of existing nonconforming signs. He stated that there are approximately 30 larger, tall pole signs in existence.

Councilor Harris asked if the sign is pulled, does the sign go away. Mr. Rux said if in a FOA, a sign can be left in the same location, but can make it smaller (minimum of 25% reduction); if the owner wants to move the sign's location, that would trigger the amended "rules" – to adhere to new ordinance regulations. He also noted that you can have wall signs. It was reiterated that this ordinance would eliminate FOA areas in the Code.

Mayor Ogden asked for clarification regarding non-conforming signs – a "face change" can be unlimited, but if alterations to the size or structure of a sign, then that comes into nonconforming. If the structure changes and it is a nonconforming sign, it must be removed or dropped by 25% in size. Discussion followed.

Councilor Maddux asked what would happen if a property sells, what can the new owner do. Mr. Rux said a change of ownership does not require a sign be removed.

C. CITIZEN COMMENTS

Not applicable.

D. CONSENT AGENDA

The Consent Agenda was reviewed by the Council. Councilor Harris stated that his firm assisted in the legal description for item D.3. Brenda Braden, City Attorney, said Councilor Harris could abstain on D.3., but vote.

E. PUBLIC HEARINGS - *Legislative or Other*

Not applicable.

F. PUBLIC HEARINGS - *Quasi-Judicial*

Not applicable.

G. GENERAL BUSINESS

None.

H. ITEMS REMOVED FROM CONSENT AGENDA

Not applicable.

I. COMMUNICATIONS FROM COUNCILORS

Ms. Lombos noted that the Spring Fling event will be this Saturday, May 31st, 10:00 a.m. to 2:00 p.m. at the Commons; Mayor Ogden said he would be present at the event.

J. EXECUTIVE SESSION

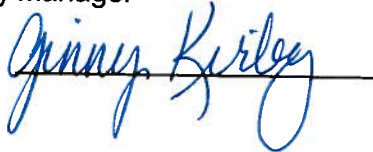
Council went into Executive Session pursuant to ORS 192.660(2)(h) to discuss current and pending litigation at the beginning of work session.

K. ADJOURNMENT

Meeting adjourned at 6:48 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, appearing to read "Ginny Kirtley", is written over a horizontal line.



TUALATIN CITY COUNCIL MEETING MINUTES OF MAY 27, 2008

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Kent Barker, Chief of Police; Dan Boss, Operations Director; Darrel Condra, Library Manager; Kaaren Hofmann, Civil Engineer; Don Hudson, Finance Director; Carina Christensen, Assistant to the City Manager; Colin Cortes, Assistant Planner; Paul Hennon, Community Development Director; Ginny Kirby, Recording Secretary

ABSENT: [* denotes excused]

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 7:04 p.m.
Councilor Boryska lead the Pledge of Allegiance.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Chamber of Commerce Update – *Carla Thaler*

Ms. Thaler noted many new businesses in the City, including Lil Jumping Beans, Evergreen Gardening, RPM Chassis, Happy Kids Daycare, Safe Journeys, and Forever More.

Events coming up include Ribbon Cuttings on June 4 for Urban Bean Co. (Martinazzi Square), and on June 18 for Fiorano Ristorante (on the Lake).

Ms. Thaler wanted to remind folks that the 4th Thursday in June is the next Chamber Monthly Luncheon, featured speaker will be a representative from TriMet.

2. New Employee Introduction – *Danny Smith Jr., Community Services Department*
Community Services Library Manager Darrel Condra introduced Danny Smith Jr. Danny is a new Senior Library Assistant for Community Services Department – Library.

3. Presentation of Public Art – *Buck Braden and Donna Maddux*

Buck Braden, SW Shawnee Trail, Tualatin, stated that the Tualatin Arts Advisory Committee (a 7-member committee) is to give a yearly report to Council on the past year's activities. Art Splash had 54 artists last year and grossed \$15,000; the City retains 30% as commission which then goes to help art programs in the community. They helped sponsor Concerts on the Commons and raised \$20,000. Also, they helped support some outside entities such as Broadway Rose, Tualatin Heritage

Center, and the Tualatin Heritage Center (THC) Luminaire Players. The first Student Visual Chronicle was sponsored, nine artwork pieces were chosen, and a reception was held at the THC. The second Student Visual Chronicle was held this year.

Councilor Maddux wanted to speak to new art for the Library. She noted that the copper piece "Through the Eyes of Children" (currently on the back wall in the Council Chambers) will be in the Children's area at the new Library. An Ad Hoc Art Selection Committee had been established; more than 200 proposals were received and reviewed. The group recommended seven pieces of artwork that Council approved. Mayor Ogden commented on the large community involvement in this process and thanked the committee for all their hard work.

C. CITIZEN COMMENTS

Cindy Green, Comanche Way, Tualatin. Ms. Green said she was here to address the Seminole Trail issue. She noted that Tualatin Planning Advisory Committee (TPAC) passed a 2-part recommendation that dealt with rental housing unit of 6 or more and adherence to all City regulations.

Karen Jones, Seminole Trail, Tualatin. Ms. Jones noted that Seminole Trail is a short street with a small cul-de-sac which hinders some larger vehicle turning movements. Concerns were expressed over parking and the amount of vehicles. She thought Oxford House was a good thing, just not in this location due to potential parking issues. Ms. Jones felt there should be a minimum of 350 square feet per person allowed in a single family residence; there will be 11 people in this home.

Scott Repp, Seminole Trail, Tualatin. Mr. Repp stated that he, too, was here to keep this issue in the forefront of everyone's minds. He noted he had a personal appreciation of Oxford House. He had two requests: 1) formally hear the concerns of parking safety; and 2) that the City of Tualatin empower themselves on the appeal of the building permit for the garage. Mr. Repp read excerpts from articles from both the U.S. Department of Justice and Department of Housing & Development, which addressed group home issues, specifically parking issues that can arise.

Kathy Newcomb, Cheyenne Way, Tualatin. Ms. Newcomb distributed a handout: Monthly Water Demand Analysis. She noted that at the last meeting she came with information regarding water shortages during summer and potential ideas to help alleviate this issue. Ms. Newcomb said some people questioned the shortages and she wanted to clarify that we do have shortages in the summer months. She said we should increase our number of aquifer storage & recovery wells to help alleviate summer shortages.

Arne Nyberg, Dogwood Street, Lake Oswego. Mr. Nyberg stated he is on the Rivergrove Budget Committee. He said they will be shutting off water for their City park so the grass won't continually grow and this will then lessen the amount of mowing that is done as their form of mitigation.

Mr. Nyberg requested that item D.3. be removed from the Consent agenda. The Mayor agreed to do so.

Mayor Ogden stated there will be an "open house" tomorrow evening, May 28, 2008, at 6:30 p.m. in the Training Room at the Tualatin Police Department regarding Oxford House. He invited everyone with concerns and questions to please come to the Open House. Councilor Truax noted that originally it was mentioned that they might possibly have a special council meeting, but that was changed due to pending litigation. It has been changed to an Open House and Mayor Ogden will be there as Council's representative.

Katie Bailey, Seminole Trail, Tualatin. Ms. Bailey asked what litigation is pending. Brenda Braden explained the information received by the City.

Leslie Ross, Seminole Trail, Tualatin. Ms. Ross asked who was attending the May 28th meeting for Council; it was reiterated that the Mayor would be in attendance.

D. CONSENT AGENDA

Item D.3. was removed from the Consent Agenda earlier in the meeting.

MOTION by Councilor Harris, SECONDED by Councilor Barhyte to adopt the Consent Agenda as read and amended:

1. Resolution No. 4788-08 Amending the City of Tualatin Fee Schedule and Rescinding Resolution No. 4757-08
2. Resolution No. 4789-08 Approving Amendment No. 2 to the Intergovernmental Agreement Between Washington County and the City of Tualatin for the Coordination of Activities Related to the U.S. Department of Homeland Security's Urban Areas Security Initiative (UASI) Grant Program
4. 2007 Annual Report of the Tualatin Arts Advisory Committee
5. Resolution No. 4791-08 Accepting Deed of Dedication and Easements Associated With the SW Herman Road Improvements Project (Sally Lee Paulson)

MOTION CARRIED.

E. PUBLIC HEARINGS - Legislative or Other

1. An Ordinance Relating to Signs; Removing Freeway-Oriented Activity Signs as Allowed Freestanding Signs; Amending Nonconforming Sign Provisions; and Amending TDC 20.030, 31.060, 35.200, 38.110, and 38.220 - PTA 08-01

Mayor Ogden opened the public hearing.

Will Harper, Associate Planner, entered the entire staff report and attachments into the record. Mr. Harper stated that in late January 2008, Council looked at the issue of older tall pole signs adjacent to I5 and the feasibility of removing one or more by process. Council had expressed their concerns for the look of the older tall signs. Mr. Harper

briefly reviewed what had been reviewed in the January work session. The Freeway-Oriented Activity (FOA) area was originally established in the late 1960s. FOA was defined by a map (Attachment A) that showed boxes around freeway interchanges. The signs could be 45' tall and have an area of 250 square feet.

Tualatin's non-conforming regulations currently apply to signs erected prior to 1972. Council's interest had been in reducing height and size of FOA signs. Based on the analysis in the staff report and attachments, staff asks that Council recommend the amendment and direct staff to bring back an Ordinance for Council approval.

PROPONENTS - None.

OPPONENTS

Arne Nyberg, Dogwood Street, Lake Oswego. Mr. Nyberg expressed a concern about the Nyberg Crossing development's sign located at the southwest corner of SW Nyberg/I5, which was installed in 2001. Mr. Harper said that Nyberg Crossing's free-standing sign is a FOA type sign. If this amendment is approved, that sign would fall under non-conforming sign category; it can stay and can have certain face changes. It can remain as is, a structural change would come under non-conforming and a new sign could be altered as long as the face area was a minimum of 25% smaller. Mr. Nyberg asked if, for example, the tubes were set incorrectly and they would need to make a change that made the sign face wider and not so "tall", what would happen. Mr. Rux clarified that if a structural change were required, and you want the sign to stay, the face change would have to be 25% smaller.

Mr. Nyberg stated he felt this plan text amendment is a travesty. He said that "face" is important to businesses; signs make an economic impact for a business. He feels it would be a bad thing to do for the business community. He feels it could be written much differently; that this is not the way to go. He felt it should be written in a more pro-business fashion. Mayor Ogden asked what Mr. Nyberg felt could be done better. Mr. Nyberg replied he didn't feel the City should abandon the FOA category for signs.

Councilor Truax asked what exactly Mr. Nyberg didn't like; Mr. Nyberg stated he felt it is a "taking" by definition. He noted that under Measure 37, billboard signs would have been allowed. Mr. Nyberg said that by removing FOA designation, the sign would no longer be allowed. It was clarified that the sign would not have to be removed, it can stay as is. However, if structural changes were needed, the height may be lessened or structural changes may require that the sign face size may have to be decreased. Councilor Harris asked about replacing the structure, for example, can a person replace the structure with the same pole structure, same housing, etc. Mr. Harper said yes, it could be replaced.

Mayor Ogden closed the public hearing.

COUNCIL DISCUSSION – None.

MOTION by Councilor Barhyte; SECONDED by Councilor Boryska to adopt the staff report and attachments and ask staff to prepare an Ordinance granting the Plan Text Amendment (PTA 08-01). MOTION CARRIED.

F. PUBLIC HEARINGS - Quasi-Judicial

1. An Ordinance Applying the Institutional (IN) Planning District to 8930 SW Norwood Road, and Amending the Community Plan Map 9-1 (PMA 08-02)

Mayor Ogden read language required by legislation before a comprehensive plan or land use regulation [ORS 197.753(5) and (6)] and opened the public hearing. No bias or ex parte contact noted.

Colin Cortes, Assistant Planner, entered the entire staff report into the record. Mr. Cortes noted that this site contains a reservoir and that the Engineering Division would like to construct a pump station on the property. A water reservoir is an allowed use, but a pump station is not.

PROPOSERS – None.

OPPOSERS – None.

Mayor Ogden closed the public hearing.

COUNCIL DISCUSSION – None.

MOTION by Councilor Truax; SECONDED by Councilor Boryska to adopt the staff report, accept the Plan Map Amendment, and direct staff to prepare an Ordinance amending the Community Plan Map 9-1 (PMA 08-02). MOTION CARRIED.

G. GENERAL BUSINESS

1. Resolution No. ---- Allowing a Traffic Signal at the Intersection of SW 108th Avenue and SW Tualatin Road

Mike McKillip, City Engineer, gave a PowerPoint presentation. Mr. McKillip commented that this item is similar to several previously discussed at earlier meetings. When you start installing traffic control devices when warrants are not met, Council needs to use discretionary judgment to make the decision.

This project is included in the City's Transportation Plan and System Development Code. Area residents have, in the past, expressed concerns about potential removal of trees if this project were approved. Businesses in the Leveton Tax Increment District typically inquire what being in the Tax District will provide; this project is listed as one of the items.

If the City does not install this project, there are several other routes that vehicles can take. The volumes on SW 108th Avenue are quite low; the project does not meet warrants. Mr. McKillip said some questions had been raised regarding ques. There would potentially be backups created that block SW 109th Avenue to the west and SW 106th Avenue to the east. There have also been some concerns expressed regarding sight distance. He said many intersections on Tualatin Road have the same issue, once you stop at the stop bar, you typically have to inch forward just slightly for clear sight distance.

Ms. Lombos asked for clarification regarding potential tree removal. Doug Rux, Community Development Director, noted they have been working with their engineers to make sure none of the large fir trees would have to be removed during traffic signal installation. Pedestrian issues have also been raised. The project is being designed to preserve the large firs at the southwest corner.

Councilor Harris was concerned that the sight distance wasn't as good as it could be and that this intersection is "an accident waiting to happen". Councilor Boryska expressed concerns that the traffic numbers are so low and so many intersections in the City are the same as the subject intersection. Mr. Rux spoke to why this project is before Council tonight. The possibility for several more large businesses being built in the District exists and the question is typically asked regarding what is being done for transportation. He went on to explain that the District has funding now; when the District "goes away" the funding goes away from this source. This would, in essence, be installation of infrastructure.

Kaaren Hofmann, Civil Engineer, explained that the traffic numbers stated in the staff report do take into account all potential businesses that could be built in the Leveton Tax Increment District. At projected buildout in 2024, the intersection is not projected to meet warrants; 2028 full buildout traffic projections still may not meet warrants. Ms. Hofmann reiterated what Mr. McKillip stated regarding the available alternate routes in the area.

Councilor Maddux agreed with Councilor Boryska, it doesn't appear to be warranted at this point in time. Mayor Ogden asked staff if they thought many trucks would divert to SW 108th Avenue if a signal were installed; staff couldn't speculate. Discussion continued.

Mayor Ogden said he feels this is not the right time for this project; but would like to take another look in the future before the District closes.

2. Change Order No. 3 to the Contract Documents for Construction of the Library/City Offices Expansion and Remodel Project

Paul Hennon, Community Services Director, stated the purpose of this item is to provide an overview of the Change Order and the status of the project. Mr. Hennon gave a PowerPoint presentation.

The project is within the available funds overall and this has no impact on the schedule. \$90,052 is the amount of this change order; it covers signage, some lighting improvements, changes to the ceiling, etc. Funding is coming from project contingency. He noted one more change order is anticipated and will be covered by available funding. The project is ahead of schedule. A two-step process is planned for offices moving back into the building; the City office side will have Engineering/Building and Community Development moving back on June 5 and June 6.

The temporary library will be closed June 20-July 13. The new library will open July 14. Returns (book drops) will be operating at the new library and the front parking lot will be open the first week of June. When the library opens on July 14, the water feature will not yet be complete. Also, a bronze art piece will be installed in front of the library in December 2008. Mr. Hennon stated staff recommends that Council approve Change Order No. 3.

Councilor Beikman asked if there will be an outside drop-off for books. Mr. Hennon said there will not be; an outside book drop would have meant sacrificing several parking spaces. Councilor Harris noted the new facility is very nice and will be greatly appreciated by the public. Mayor Ogden thanked staff for all the hard work it took to make the move to the temporary space and how much it will take to move back.

MOTION by Councilor Truax, SECONDED by Councilor Boryska to approve Change Order No. 3 to the Contract Documents for Construction of the Library/City Offices Expansion and Remodel Project. MOTION CARRIED.

H. ITEMS REMOVED FROM CONSENT AGENDA

D.3. Resolution No. 4790-08 Authorizing Off-Site Buffer Mitigation and Easement on City Property in Brown's Ferry Park

Councilor Harris recused himself as his firm prepared the legal description for this project.

Paul Hennon, Community Services Director, noted that approximately a half-acre of native plantings would be installed. This property is owned jointly with Metro. The developer has a natural resource mitigation requirement due to the Deer Creek Subdivision constructed in King City. They contacted the City asking if this mitigation would be possible. Mr. Hennon noted it is a long standing goal of the City to enhance the area. We have allowed City property to be used for off-site mitigation in a couple of instances in the past; at Hedges Creek wetlands area and at Brown's Ferry Park. Staff discussed this with the Park Advisory Committee and they were in favor.

Arne Nyberg, Dogwood Street, Lake Oswego. Mr. Nyberg asked why the City was only requiring a 2-year maintenance agreement, as Clean Water Services (CWS) typically asks for a 10-year agreement. Mr. Hennon noted that in the past, it has always been a 2-year agreement with CWS and that his knowledge is that 2-years is CWS's standard.

MOTION by Councilor Barhyte, SECONDED by Councilor Truax to grant off-site buffer mitigation and easement on City Property in Brown's Ferry Park. MOTION CARRIED.

I. COMMUNICATIONS FROM COUNCILORS

None.

J. EXECUTIVE SESSION

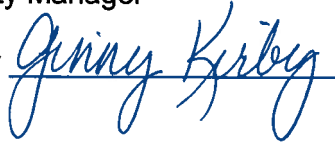
City Council held an Executive Session pursuant to ORS 192.660(2)(h) to discuss current and pending litigation at the beginning of work session.

K. ADJOURNMENT

The meeting adjourned at 9:17 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, reading "Ginny Kirby", is written over a horizontal line.



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *[Signature]*

FROM: Debra Senger, Administration *[Signature]*

DATE: July 14, 2008

SUBJECT: Citizen Involvement Committee Appointments

ISSUE BEFORE THE COUNCIL:

Appointments to Citizen Involvement Committees and Boards.

RECOMMENDATION:

Approve the Citizen Involvement Committee recommendations and appoint the below listed individuals.

EXECUTIVE SUMMARY:

On June 26, 2008, the Citizen Involvement Committee met and interviewed citizens interested in participating on City Committees and Boards. The committee made the recommendation to appoint the following individuals:

Individual	Committee/Board	Term
Bill Lambert	Architectural Review Board	Partial term expiring 6/30/10
Carla Thaler	Arts Advisory Committee	Partial term expiring 3/31/10
Gary Thompson	Arts Advisory Committee	Partial term expiring 3/31/11

FINANCIAL IMPLICATIONS:

Not applicable.



STAFF REPORT

CITY OF TUALATIN

Approved By Tualatin City Council
Date 7-14-08
Recording Secretary M. B. Smith

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager

DATE: July 14, 2008

SUBJECT: APPROVAL OF CHANGE OF OWNERSHIP LIQUOR LICENSE
APPLICATION FOR LA BARCA GUERRERO

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve a change of ownership liquor license application for La Barca Guerrero Market.

RECOMMENDATION:

Staff respectfully recommends that the Council approve endorsement of the liquor license application for La Barca Guerrero Market.

EXECUTIVE SUMMARY:

La Barca Guerrero has submitted a change of ownership liquor license application. The liquor license is for Off-Premises Sales, Commercial Establishment. The business is located at 8144 SW Seneca Street. The application is in accordance with provisions of Ordinance No. 680-85 which established a procedure for review of liquor licenses by the Council.

Ordinance No. 680-85 establishes procedures for liquor license applicants. Applicants are required to fill out a City application form, from which a review by the Police Department is conducted, according to standards and criteria established in Section 6 of the ordinance. The Police Department has reviewed and signed off on this application.

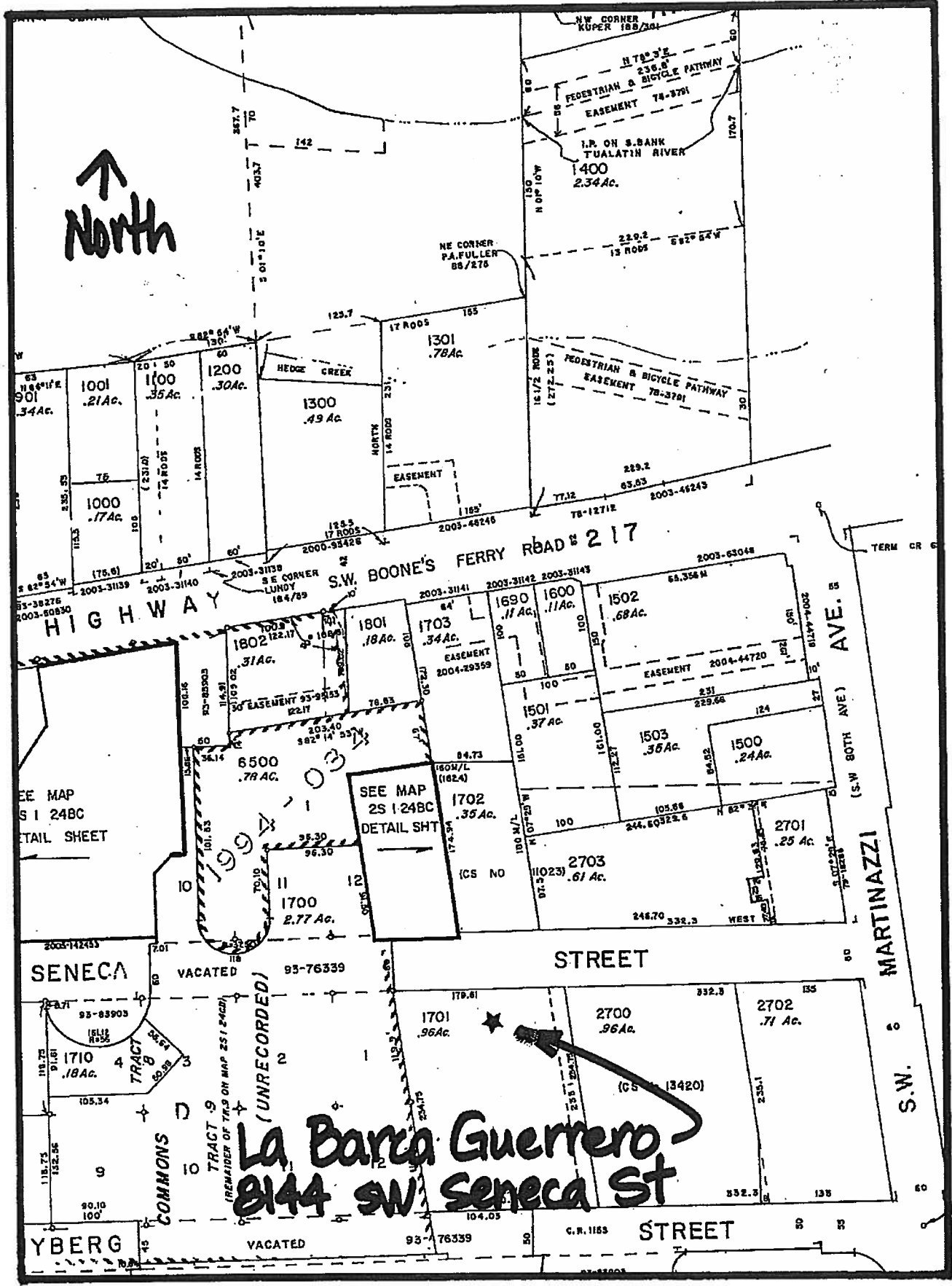
According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for such a hearing include reasons for said hearing.

FINANCIAL IMPLICATIONS:

A fee of \$100 has been paid by the applicant.

Attachments: Vicinity Map

North



La Barca Guerrero
8144 SW Seneca St



STAFF REPORT CITY OF TUALATIN

Approved By Tualatin City Council
Date 7-14-08
Recording Secretary [Signature]

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager [Signature]

FROM: Doug Rux, Community Development Director [Signature]
Eric Underwood, Development Coordinator [Signature]

DATE: July 14, 2008

SUBJECT: RESOLUTION ACCEPTING DEED OF DEDICATION AND
EASEMENTS ASSOCIATED WITH THE SW HERMAN ROAD
IMPROVEMENT PROJECT (WALGRAEVE PROPERTY)

ISSUE BEFORE THE COUNCIL:

Whether the Tualatin City Council should adopt a resolution accepting Deeds of Dedication and Slope/Utility Easements as part of the SW Herman Road Improvement Project.

RECOMMENDATION:

Staff recommends that the City Council adopt the attached resolution.

EXECUTIVE SUMMARY:

- This action is not a public hearing.
- The Fiscal Year 07/08 and 08/09 Leveton Tax Increment District Project Fund contains a capital project to design roadway improvements, and acquire rights-of-way and easements for the SW Herman Road Improvement Project.
- The project area consists of SW Herman Road from SW Teton Avenue to SW 124th Avenue.
- This public improvement project is funded by the Tualatin Development Commission ("Commission") from SW 108th Avenue to SW 124th Avenue. The City is funding improvements from SW Teton Avenue to SW 108th Avenue.
- The primary purpose of constructing the roadway is to better facilitate freight mobility and industrial traffic flow within the District and to improve storm water drainage as well as overall roadway conditions.

- As part of the project, rights-of-way and utility, slope, and permanent easements have been identified.
- The acceptance of the Deed of Dedication and Easements are conditioned on the Commission at their July 14, 2008 meeting adopting a resolution authorizing compensation for the Deed of Dedication and Easements for the amounts noted in the attached documents.
- The Commission at its August 13, 2007 meeting directed the acquisition of rights-of-ways and easements.
- The document to be accepted is from the following:
 - Rick and Gary Walgraeve (Deed of Dedication and Slope/Utility Easements).
- The Deed of Dedication and Easements are being presented to the Council for acceptance because the subject project is for a public street improvement and the Commission does not accept these types of documents.
- There are no criteria to apply to this request.

OUTCOMES OF DECISION:

Approval of the request to accept Deed of Dedication and Easements will result in the following:

1. Allow the Commission to obtain the rights-of-way and easements needed to construct roadway improvements.
2. Allow the SW Herman Road Improvement Project to maintain its current timeline.

Denial of the request to accept Deed of Dedication and Easements will result in the following:

1. The project will be delayed.
2. The Commission will need to decide whether or not to renegotiate right-of-way and easement acquisition costs.

ALTERNATIVES TO RECOMMENDATION:

Alternatives evaluated to acceptance of Deed of Dedication and Easements are as follows:

1. Renegotiate right-of-way and easement need and acquisition costs with current property owners.
2. Put project on hold.

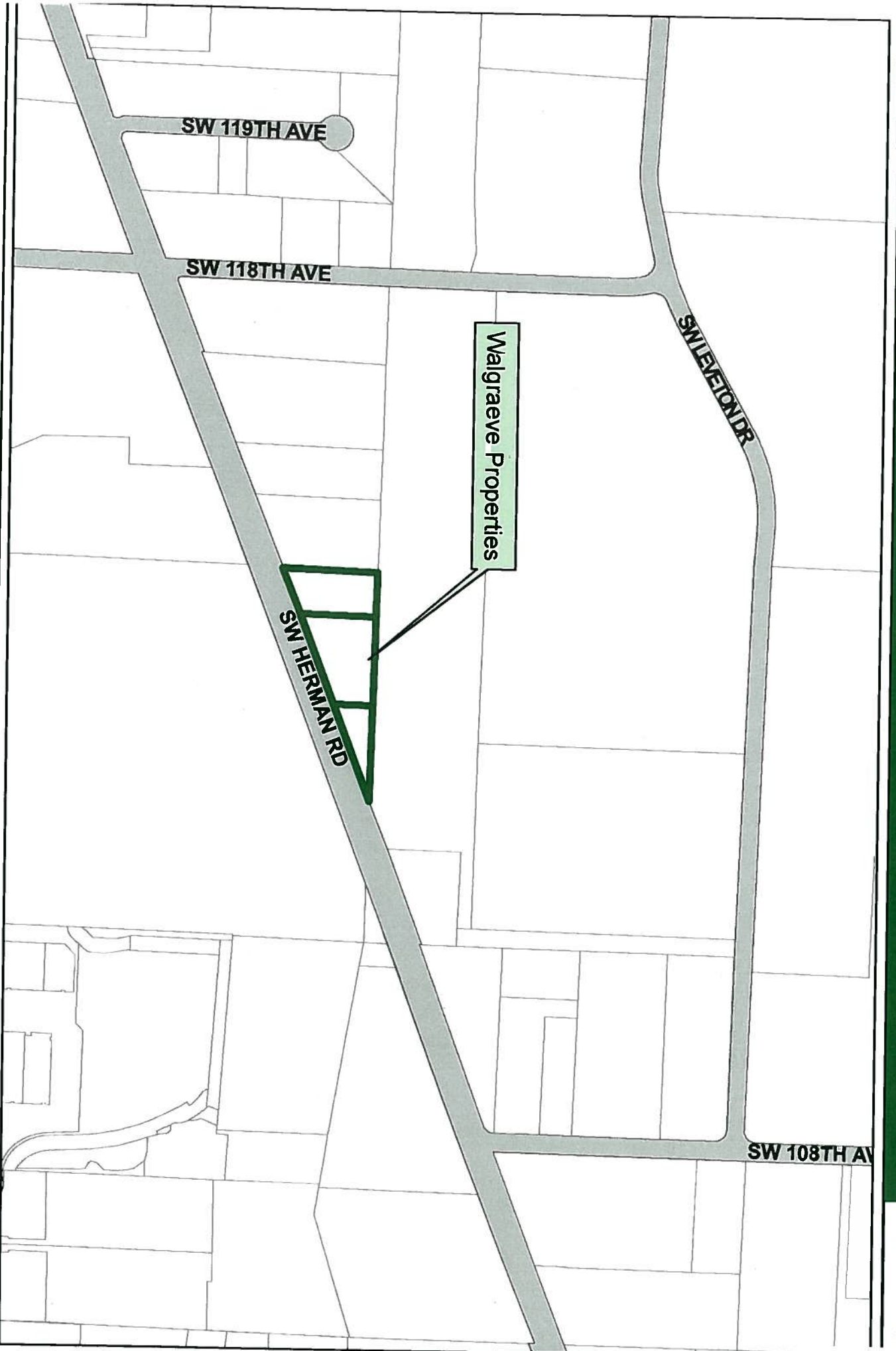
FINANCIAL IMPLICATIONS:

Compensation for the Deed of Dedication and Easements was addressed by the Commission at their July 14, 2008 meeting and is not applicable to acceptance of these documents.

PUBLIC INVOLVEMENT:

Public involvement is not required as part of this action.

- Attachments:**
1. Right-of-Way and Slope/Utility Easements Map
 2. Resolution with Exhibits



Parcels of Interest

RF 1:5,000



This map is derived from various digital database sources. The City of Tulsa, OK assumes no responsibility for any errors or omissions in the information. This map is provided "as is". Engineering and Building Dept.

RESOLUTION NO. 4809-08

RESOLUTION ACCEPTING DEED OF DEDICATION
AND EASEMENTS IN ASSOCIATION WITH THE
SW HERMAN ROAD IMPROVEMENT PROJECT
(RICK AND GARY WALGRAEVE)

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
TUALATIN, OREGON, that:

Section 1. The attached document, Exhibit 1 is hereby accepted by the City of
Tualatin:

- a. Deed of Dedication and Slope/Public Utility Easement from Rick and
Gary Walgraeve.

Section 2. The City Recorder shall be instructed to cause said Deed of
Dedication and Slope/Public Utility Easements to be recorded in the Book of
Records of the Washington County Recorder.

Section 3. The acceptance of the Deed of Dedication and Easements are
conditioned on the Tualatin Development Commission adopting a resolution
authorizing compensation for the Deed of Dedication and Easements.

INTRODUCED AND ADOPTED this 14th day of July, 2008.

CITY OF TUALATIN, OREGON

By _____
Mayor

ATTEST:

By _____
City Recorder

APPROVED AS TO LEGAL FORM

CITY ATTORNEY

Resolution No. 4809-08



CITY OF TUALATIN, OREGON

DEED OF DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that Gary Walgraeve and Rick Walgraeve also known as Ricky Walgraeve, as tenants in common (the "GRANTOR"), grants to the City of Tualatin (the "CITY"), its successors in interest and assigns, the following real property with the tenements, hereditaments and appurtenances, situated in the County of Washington, State of Oregon, for the use of the public as a public way forever, for street, road, right-of-way and public utility purposes, bounded and described as follows, to wit:

*See attached legal description
and attached map of description*

TO HAVE AND TO HOLD, the described and granted premises unto the said CITY, its successors in interest and assigns forever.

The true consideration of this conveyance is **Three Hundred Three Thousand Eight Hundred Three and No/100 (\$303,803.00)** and other valuable consideration, the receipt of which is acknowledged by GRANTOR.

The GRANTOR covenants to the CITY, and CITY'S successors in interest and assigns that GRANTOR is lawfully seized in fee simple of the granted premises, free from all encumbrances, except encumbrances stated in the attached and incorporated exhibit entitled "Excepted Encumbrances", and that GRANTOR, GRANTOR'S heirs, and personal representatives shall warrant and forever defend the premises to the CITY, its successors in interest and assigns against the lawful claims and demands of all persons claiming by, through, or under the GRANTOR.

EXECUTED this 2 day of JULY, 2008

Gary Walgraeve and Rick Walgraeve also known as Ricky Walgraeve, as tenants in common

Rick Walgraeve
Name (print or type)

Rick Walgraeve
Signature

Title

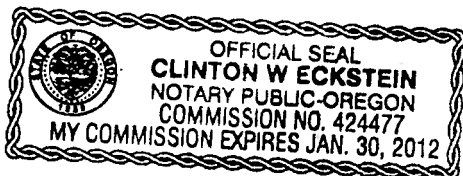
GARY WALGRAEVE
Name (print or type)

Gary Walgraeve
Signature

Title

STATE OF OREGON)
County of Washington)ss
)

On this 2 day of July, 2008, before me, the undersigned, a Notary Public, personally appeared TRICK WALGRAEVE & GARY WALGRAEVE and acknowledged the foregoing instrument to be their voluntary act and deed.



Before me: Clinton W. Eckstein
Notary Public for Oregon

My commission expires: 1/30/12

CITY OF TUALATIN, OREGON

By [Signature]
Mayor

ATTEST:

By [Signature]
City Recorder

EXHIBIT A

**Herman Road Improvement Project
December 7, 2007**

**Tax Map No. 2S122D 0500
Tax Map No. 2S122D 0501
GARY WALGRAEVE and
RICKY WALGRAEVE,**

PARCEL 1 - RIGHT-OF-WAY DEDICATION

A parcel of land lying in that tract of real property in Section 22, Township 2 South, Range 1 West of the Willamette Meridian, Washington County, Oregon and being more particularly described in a Deed to GARY WALGRAEVE and RICKY WALGRAEVE as tenants in common, recorded on November 12, 1993, in Document No. 93094118, Washington County Book of Records, said parcel being that portion of said property included in a strip of land variable in width, lying northerly of the centerline of SW Herman Road (County Road 489), which centerline is described as follows:

Beginning at station 34+82.00, said point being South 4°53'13" East, 1440.06 feet from the West quarter corner of Section 22, Township 2 South, Range 1 West, said point also being 40.00 feet from the centerline of the Southern Pacific Railroad centerline when measured at right angles, said point also being on the centerline of SW 124th Avenue as shown on Survey No. 29,817 filed with Washington County Surveyor's office;

Thence North 68°56'37" East, parallel with and 40.00 feet from said Railroad centerline, 5913.76 feet to station 93+95.76; said point being at the intersection with the centerline of SW Teton Avenue.

The widths in feet of the strip of land above referred to are as follows:

<u>SW HERMAN ROAD STATION</u>	<u>WIDTH ON NORTHERLY SIDE OF CENTERLINE</u>
From 61+48.00 To 66+16.00	55.75 feet
From 66+16.00 To 70+21.00	55.75 feet in a straight line to 47.75 feet
From 70+21.00 To 70+95.36	47.75 feet in a straight line to 50.00 feet
From 70+95.36 To 72+00.00	50.00 feet

EXCEPT therefrom that portion lying within the existing right-of-way of SW Herman Road (County Road 489).

This area of land contains 29,233 square feet (0.671 acres), more or less.

EXHIBIT A -Continued

PARCEL 2 – PERMANENT SLOPE AND UTILITY EASEMENT

A parcel of land lying in that tract of real property in Section 22, Township 2 South, Range 1 West of the Willamette Meridian, Washington County, Oregon and being more particularly described in a Deed to GARY WALGRAEVE and RICKY WALGRAEVE as tenants in common, recorded on November 12, 1993, in Document No. 93094118, Washington County Book of Records, said parcel being that portion of said property included in a strip of land variable in width, lying northerly of the centerline of SW Herman Road (County Road 489), said centerline described in PARCEL 1.

The widths in feet of the strip of land above referred to are as follows:

SW HERMAN ROAD STATION

WIDTH ON NORTHERLY SIDE OF CENTERLINE

From 60+90.00
To 66+16.00

65.50 feet in a straight line to 65.75 feet

From 66+16.00
To 70+21.00

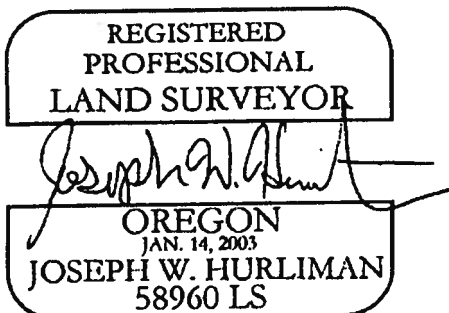
65.75 feet in a straight line to 57.75 feet

From 70+21.00
To 72+00.00

57.75 feet in a straight line to 60.00 feet

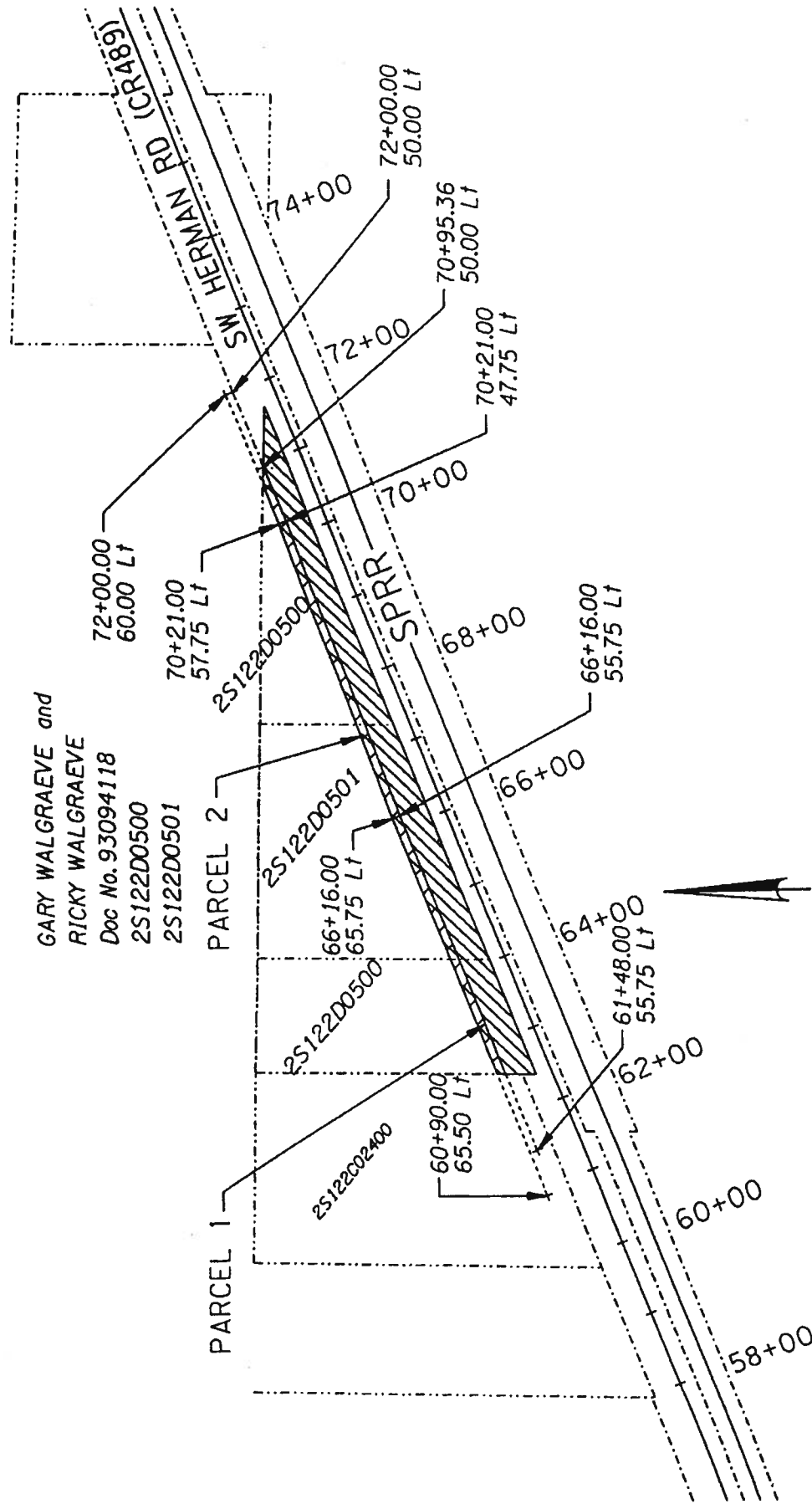
EXCEPT therefrom that portion lying within the existing right-of-way of SW Herman Road (County Road 489) and EXCEPT that portion described in PARCEL 1.

This area of land contains 8,209 square feet (0.188 acres), more or less.



RENEWAL: 6/30/09
SIGNED: 12-7-2007

EXHIBIT B



RIGHT OF WAY DEDICATION
CITY OF TUALATIN
HERMAN ROAD
IMPROVEMENT PROJECT
DEC, 2007

CH2MHILL

PARCEL 1
RIGHT OF WAY DEDICATION



PARCEL 2
SLOPE AND UTILITY EASEMENT





CITY OF TUALATIN, OREGON

SLOPE AND PUBLIC UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Gary Walgraeve and Rick Walgraeve also known as Ricky Walgraeve, as tenants in common (the "GRANTOR"), grant to the City of Tualatin (the "CITY"), its successors in interest and assigns, the permanent right to construct, reconstruct, operate and maintain a Slope and Public Utilities, including but not limited to water, sewer, storm drain, power, telephone, cable television, and natural gas lines and facilities on the following described land:

See attached legal description and map

This Slope and Public Utility Easement is granted for the purpose of design, construction, operation, reconstruction, maintenance, and repair of a slope and utility in support of and to protect and save from damage the adjacent public right-of-way used for a public roadway, sidewalk, and related improvements and to allow installation of public utilities systems in this area.

TO HAVE AND TO HOLD, the described easement unto the CITY, its successors in interest and assigns forever.

GRANTOR reserves the right to use the surface of the land for walkways, plantings, parking, landscape maintenance, and related uses. Uses by the GRANTOR shall not be inconsistent or interfere with the use of the easement area by the CITY. No building or utility shall be placed upon, under, or within the property subject to the easement during its term without the written permission of the CITY.

Except as otherwise provided, upon completion of construction by CITY, the CITY shall restore the disturbed surface of the property to the condition reasonably similar to the previous state, and shall indemnify and hold the GRANTOR harmless against all loss, costs, or damage arising out of the exercise of the rights granted. Nothing contained in this easement shall be construed as requiring the CITY, its successors in interest or assigns to maintain landscaping, walkways, parking, or other surface or subsurface improvement made or constructed by or on behalf of the GRANTOR, its heirs, successors in interest or assigns.

The true and actual consideration paid for this transfer consists of **Twelve Thousand Nine Hundred Seventy and No/100 Dollars (\$12,970.00)** or includes other property or other value given or promised, the receipt of which is acknowledge by the GRANTOR.

The GRANTOR covenants to the CITY, and CITY'S successors in interest and assigns that GRANTOR is lawfully seized in fee simple of the granted premises, free from all encumbrances, except encumbrances, easements, restrictions and rights-of-way of record and those common and apparent on the land, and that GRANTOR, GRANTOR'S heirs, and personal representatives shall warrant and forever defend the premises to the CITY, its successors in interest and assigns against the lawful claims and demands of all persons claiming by, through, or under the GRANTOR.

EXECUTED this 2 day of July, 2008

Gary Walgraeve and Rick Walgraeve also known as Ricky Walgraeve, as tenants in common

Rick Walgraeve
Name (print or type)

Rick Walgraeve
Signature

Title

GARY WALGRAEVE
Name (print or type)

Gary Walgraeve
Signature

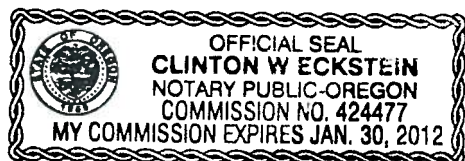
Title

STATE OF OREGON

County of Washington

)
)ss
)

On this 2 day of July, 2008, before me, the undersigned, a Notary Public, personally appeared RICK WALGRAEVE & GARY WALGRAEVE and acknowledged the foregoing instrument to be their voluntary act and deed.



Before me: Clinton W. Eckstein

Notary Public for Oregon

My commission expires: 1/30/12

CITY OF TUALATIN, OREGON

By _____

Mayor

ATTEST:

By Shirley Lombr

City Recorder

EXHIBIT A

**Herman Road Improvement Project
December 7, 2007**

**Tax Map No. 2S122D 0500
Tax Map No. 2S122D 0501
GARY WALGRAEVE and
RICKY WALGRAEVE,**

PARCEL 1 - RIGHT-OF-WAY DEDICATION

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Beginning at station 34+82.00, said point being South 4°53'13" East, 1440.06 feet from the West quarter corner of Section 22, Township 2 South, Range 1 West, said point also being 40.00 feet from the centerline of the Southern Pacific Railroad centerline when measured at right angles, said point also being on the centerline of SW 124th Avenue as shown on Survey No. 29,817 filed with Washington County Surveyor's office;

Thence North 68°56'37" East, parallel with and 40.00 feet from said Railroad centerline, 5913.76 feet to station 93+95.76; said point being at the intersection with the centerline of SW Teton Avenue.

The widths in feet of the strip of land above referred to are as follows:

<u>SW HERMAN ROAD STATION</u>	<u>WIDTH ON NORTHERLY SIDE OF CENTERLINE</u>
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From 66+16.00 To 70+21.00	55.75 feet in a straight line to 47.75 feet
From 70+21.00 To 70+95.36	47.75 feet in a straight line to 50.00 feet
From 70+95.36 To 72+00.00	50.00 feet

EXCEPT therefrom that portion lying within the existing right-of-way of SW Herman Road (County Road 489).

This area of land contains 29,233 square feet (0.671 acres), more or less.

EXHIBIT A -Continued

PARCEL 2 – PERMANENT SLOPE AND UTILITY EASEMENT

A parcel of land lying in that tract of real property in Section 22, Township 2 South, Range 1 West of the Willamette Meridian, Washington County, Oregon and being more particularly described in a Deed to GARY WALGRAEVE and RICKY WALGRAEVE as tenants in common, recorded on November 12, 1993, in Document No. 93094118, Washington County Book of Records, said parcel being that portion of said property included in a strip of land variable in width, lying northerly of the centerline of SW Herman Road (County Road 489), said centerline described in PARCEL 1.

The widths in feet of the strip of land above referred to are as follows:

SW HERMAN ROAD STATION

WIDTH ON NORTHERLY SIDE OF CENTERLINE

From 60+90.00
To 66+16.00

65.50 feet in a straight line to 65.75 feet

From 66+16.00
To 70+21.00

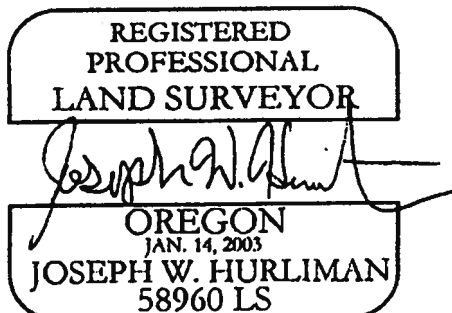
65.75 feet in a straight line to 57.75 feet

From 70+21.00
To 72+00.00

57.75 feet in a straight line to 60.00 feet

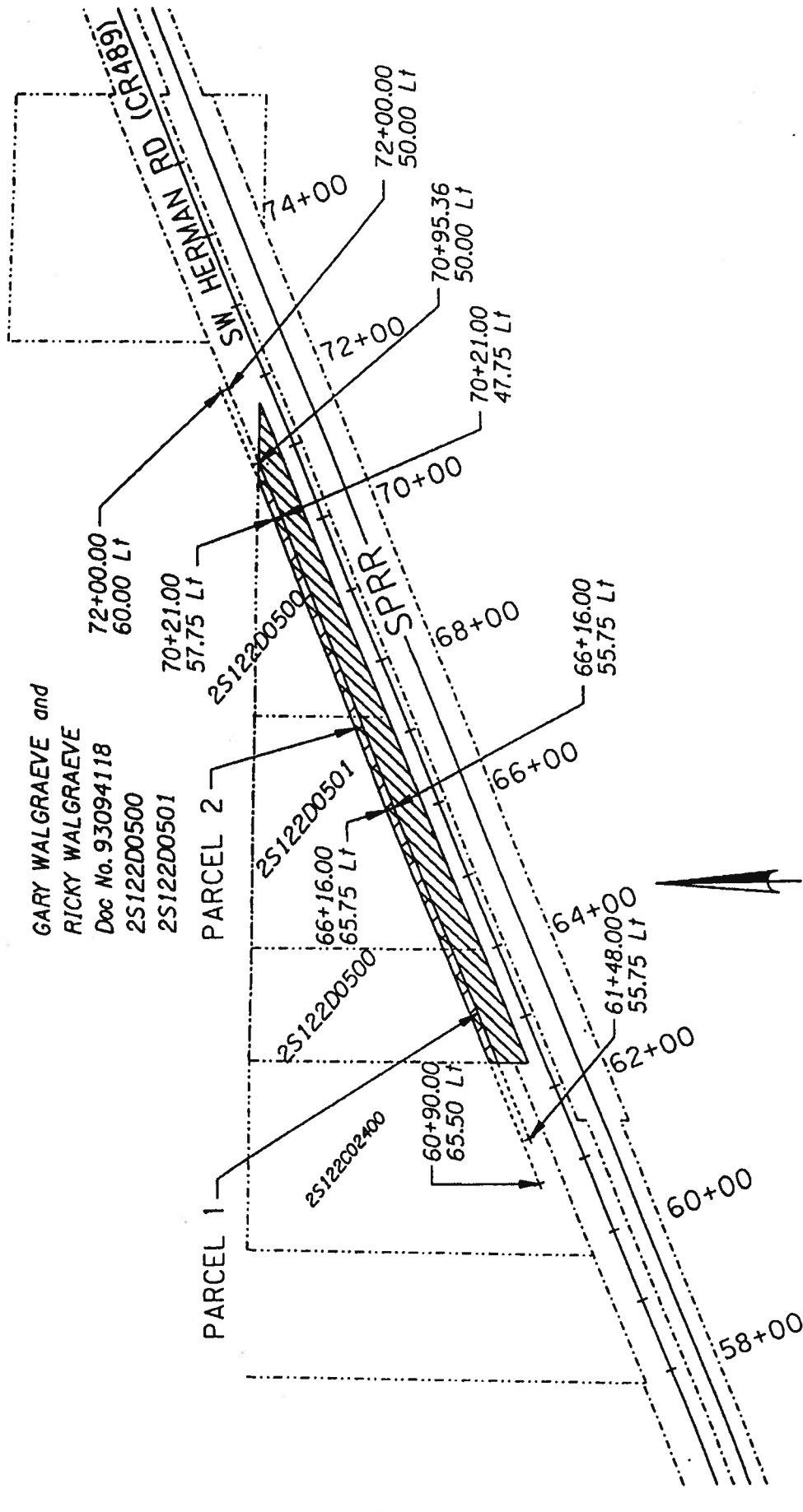
EXCEPT therefrom that portion lying within the existing right-of-way of SW Herman Road (County Road 489) and EXCEPT that portion described in PARCEL 1.

This area of land contains 8,209 square feet (0.188-acres), more or less.



RENEWAL: 6/30/09
SIGNED: 12-7-2007

EXHIBIT B



RIGHT OF WAY DEDICATION
CITY OF TUALATIN
HERMAN ROAD
IMPROVEMENT PROJECT
DEC. 2007

PARCEL 1
RIGHT OF WAY DEDICATION
PARCEL 2
SLOPE AND UTILITY EASEMENT 1"=200'

CH2MHILL



Approved By Tualatin City Council

Date 7-14-08

Recording Secretary MB

STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Michael A. McKillip, City Engineer *MAK*
Kaaren Hofmann, Civil Engineer *Kaaren*

DATE: July 14, 2008

SUBJECT: RESOLUTION ACCEPTING APPLICATIONS FOR BANCROFT BONDING CONNECTION FEES AND AUTHORIZING THE CITY RECORDER TO ENTER CERTAIN REAL PROPERTIES WITHIN THE CITY OF TUALATIN ON SW KILLARNEY LANE ONTO THE CITY OF TUALATIN LIEN DOCKET

ISSUE BEFORE THE COUNCIL:

Should the Council accept the applications for Bancroft Bonding the fees associated with building the SW Killarney Lane sewer line.

RECOMMENDATION:

Staff recommends that the Council approve the attached resolution accepting the applications to pay the connection fees in installment payments and establishing the interest rate for the unpaid balance.

EXECUTIVE SUMMARY:

The City's budget contains a project to install a public sewer line and replace the existing public water line in SW Killarney Lane. The sewer line will allow for the current residences to be connected to public sewer lines as needed and removal of the existing septic systems. The water line that will be installed is a larger water line and will replace an existing AC water line.

Bancroft bonding is the ability for a property owner or developer to essentially finance through the City their System Development Charges. This option is available to any owner/developer in the City.

The contract for the construction of the sewer line has been awarded by the City Council. The contractor will start work in the next couple of weeks.

After many discussions, the Council directed staff to prepare a resolution on the payment options associated with participating in this project.

- Thirty-three of the thirty-five homes currently on septic systems are participating in this project. Two of the property owners have not responded.
- Twenty-four property owners have paid the entire amount due (Plumbing permit fees and the System Development Charge).
- Nine property owners have applied to have their System Development Charge billed to them in installments.
- They will be billed in 20 semi-annual installments, which include interest on the unpaid balance.
- The interest rate has been based on the state pool rate and will be set at 3.2%.

OUTCOMES OF DECISION:

The contract for the construction of the sewer line has been awarded by the City Council. If adopted, this resolution will allow those who took advantage of the City's offer to participate in this project to finance the required payment to the City.

FINANCIAL IMPLICATIONS:

This project is budgeted in the FY08/09 fiscal year for construction. All participating property owners have paid their plumbing permit fees and have either paid their System Development Charge or are a part of this resolution.

PUBLIC INVOLVEMENT:

There have been several open houses, Council meetings, and one-on-one meetings with the affected property owners.

Attachments:

- A. Resolution
- B. Application & Contracts for Installment Payments (On file with the Finance Director)

RESOLUTION NO. 4810-08

RESOLUTION ACCEPTING APPLICATIONS FOR
BANCROFT BONDING CONNECTION FEES AND
AUTHORIZING THE CITY RECORDER TO ENTER CERTAIN
REAL PROPERTIES WITHIN THE CITY OF TUALATIN ON
SW KILLARNEY LANE ONTO THE CITY OF TUALATIN LIEN
DOCKET

WHEREAS there is currently no public sewer system available to the residents of SW Killarney Lane; and

WHEREAS the City will construct a public sewer line in SW Killarney Lane during the 2008-2009 fiscal year; and

WHEREAS it is in the best interest of the public health and welfare to encourage this neighborhood to hook up to the public sewer system and decommission their existing septic systems; and

WHEREAS the City has offered incentives to the property owners on SW Killarney Lane to encourage them to hook up to the public sewer system; and

WHEREAS all properties along the new sanitary sewer line will specially benefit; and

WHEREAS there are adequate funds in the Sewer Operating Fund to construct the SW Killarney Lane sewer project; and

WHEREAS the City Council has established a policy with regard to the property owners' financial participation in connecting to the sewer line; and

WHEREAS thirty-three of the thirty-five property owners on SW Killarney Lane are participating in this project; and

WHEREAS nine property owners on SW Killarney Lane have submitted Applications and Contracts for Installment Payments for the System Development Charges per the City's Bancroft Bond Ordinance and ORS 223.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City of Tualatin accepts the applications from the nine property owners on SW Killarney Lane.

Section 2. The City Recorder is authorized to enter the following properties onto the lien docket:

1. 9460 SW Killarney Lane, Terry & Sandra Walhood
2. 9440 SW Killarney Lane, William & Gretchan MacCracken
3. 9545 SW Killarney Lane, Johnny & Whitney Wisniewski
4. 9750 SW Killarney Lane, Alexander & Melissa Pierce
5. 9790 SW Killarney Lane, Larry & Bonnie Nord
6. 9930 SW Killarney Lane, Stefan & Donna Feuerherdt
7. 9990 SW Killarney Lane, Jim & Lisa Shepherd
8. 21205 SW Boones Ferry Road, Lou Jarvis & Kathleen Kelly
9. 21130 SW Killarney Court, Brian Frey & Wyn Hendricks

Section 3. The property owners will be billed in 20 equal semi-annual installments, which include interest on the unpaid balance.

Section 4. The amount to be Bancroft Bonded is \$2,835.00.

Section 5. The interest rate is established as 3.2%.

INTRODUCED AND ADOPTED this 14th day of July, 2008.

CITY OF TUALATIN, OREGON

By _____
Mayor

ATTEST:

By 
City Recorder

Approved as to Form:


City Attorney



STAFF REPORT

CITY OF TUALATIN

Approved By Tualatin City Council
Date 7-14-08
Recording Secretary [Signature]

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager [Signature]

FROM: Michael A. McKillip, City Engineer [Signature]
Stephen Y. Ngai, Engineering Technician II [Signature]

DATE: July 14, 2008

SUBJECT: RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS
FOR A NEW DOMESTIC WATER SERVICE CONNECTION AT
19745 SW 65TH AVENUE

ISSUE BEFORE THE COUNCIL:

Acceptance of public improvements constructed at 19745 SW 65th Avenue.

RECOMMENDATION:

Staff recommends that the Council adopt the attached resolution approving and accepting the constructed public improvements.

EXECUTIVE SUMMARY:

Public Works Construction Permit No. 08-02 was issued to Braun Construction for the construction of a new residential water service located at 19745 SW 65th Avenue. This is a homeowner improvement and is not part of any Architectural Review or subdivision. All improvements have been satisfactorily completed in accords with the City of Tualatin Public Works Construction Code.

FINANCIAL IMPLICATIONS:

There are minor impacts on utility funds as a result of this work.

Attachments: A. Resolution

M:/STAFF REPORTS/PI 19745 SW 65 PWP 08-02

RESOLUTION NO. 4811-08

RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS
FOR A NEW DOMESTIC WATER SERVICE CONNECTION
AT 19745 SW 65TH AVENUE

WHEREAS the City of Tualatin, hereinafter referred to as CITY, issued Braun Construction, hereinafter referred to as DEVELOPER, Public Works Construction Permit No. 08-02 to construct a domestic water service connection; and

WHEREAS DEVELOPER has constructed said required public improvements to standards required by CITY, and now desires to have CITY accept said improvements; and

WHEREAS CITY staff has inspected and recommends approval and acceptance of all public improvements; and

WHEREAS it is in the public interest that CITY accept said improvements.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The subject improvements are hereby approved and accepted by the CITY.

INTRODUCED AND ADOPTED this 14th day of July, 2008.

CITY OF TUALATIN, OREGON

By _____
Mayor

ATTEST

By Shirley Louie
City Recorder

Approved as to Form:

Brenda L. Braden
City Attorney

Resolution No. 4811-08



STAFF REPORT

CITY OF TUALATIN

Approved By Tualatin City Council
Date 7-14-08
Recording Secretary M. Smith

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *sl*

FROM: Michael A. McKillip, City Engineer *mk*
Stephen Y. Ngai, Engineering Technician II *SN*

DATE: July 14, 2008

SUBJECT: RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS FOR
A REPLACEMENT DRIVEWAY AT 20740 SW 90TH AVENUE

ISSUE BEFORE THE COUNCIL:

Acceptance of public improvements constructed at 20740 SW 90th Avenue.

RECOMMENDATION:

Staff recommends that the Council adopt the attached resolution approving and accepting the constructed public improvements.

EXECUTIVE SUMMARY:

Public Works Construction Permit No. 08-07 was issued to Sequoia Builders for the construction of a replacement residential driveway located at 20740 SW 90th Avenue. This is a homeowner improvement and is not part of any Architectural Review or subdivision. All improvements have been satisfactorily completed in accords with the City of Tualatin Public Works Construction Code.

FINANCIAL IMPLICATIONS:

The City does not maintain driveway approaches.

Attachments: A. Resolution

M:/STAFF REPORTS/PI 20740 SW 90 PWP 08-07.doc

RESOLUTION NO. 4812-08

RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS
FOR A REPLACEMENT DRIVEWAY AT 20740 SW 90TH
AVENUE

WHEREAS the City of Tualatin, hereinafter referred to as CITY, issued Sequoia Builders, Inc., hereinafter referred to as DEVELOPER, Public Works Construction Permit No. 08-07 to construct a driveway; and

WHEREAS DEVELOPER has constructed said required public improvements to standards required by CITY, and now desires to have CITY accept said improvements; and

WHEREAS CITY staff has inspected and recommends approval and acceptance of all public improvements; and

WHEREAS it is in the public interest that CITY accept said improvements.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The subject improvements are hereby approved and accepted by the CITY.

INTRODUCED AND ADOPTED this 14th day of July, 2008.

CITY OF TUALATIN, OREGON

By [Signature]
Mayor

ATTEST

By [Signature]
City Recorder

Approved as to Form:

[Signature]
City Attorney

Resolution No. 4812-08



STAFF REPORT

CITY OF TUALATIN

Approved By Tualatin City Council
Date 7-14-08
Recording Secretary M. Smith

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Michael A. McKillip, City Engineer *MAK*
Mike Darby, Engineering Tech II *MD*

DATE: July 14, 2008

SUBJECT: RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS
FOR AMERICAN CLASSIC DECK AND FENCE

ISSUE BEFORE THE COUNCIL:

Acceptance of public improvements constructed in association with the American Classic Deck and Fence building, located at 18348 SW 126th Place.

RECOMMENDATION:

Staff recommends that the Council adopt the attached resolution approving and accepting the constructed public improvements.

EXECUTIVE SUMMARY:

All public improvements were constructed as part of the American Classic Deck and Fence building.

The improvement constructed was installation of a public water line. This was done as required by AR 06-20 issued on November 22, 2006, and have been satisfactorily completed.

FINANCIAL IMPLICATIONS:

There are minor impacts on utility funds as a result of this work. Costs to be paid by ratepayers.

M/STAFF REPORTS/PI American Classic 071408

Attachments: A. Resolution

RESOLUTION NO. 4813-08

RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS FOR
AMERICAN CLASSIC DECK AND FENCE

WHEREAS the City of Tualatin, hereinafter referred to as CITY, issued Romi Botez, hereinafter referred to as DEVELOPER, Public Works Construction Permit No. 06-23 to construct public improvements consisting of the installation of a public water line in association with the American Classic Deck and Fence building, said improvement being required by the Public Facilities Decision issued on November 22, 2006.

WHEREAS DEVELOPER has constructed said required public improvements to standards required by CITY, and now desires to have CITY accept said improvements; and

WHEREAS CITY staff has inspected and recommends approval and acceptance of all public improvements; and

WHEREAS it is in the public interest that CITY accept said improvements.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The subject improvements are hereby approved and accepted by the CITY.

INTRODUCED AND ADOPTED this 14th day of July, 2008.

CITY OF TUALATIN, OREGON

By  _____
Mayor

ATTEST

By  _____
City Recorder

Approved as to Form:


City Attorney



Approved By Tualatin City Council
Date 7-14-08
Recording Secretary M. Smith

STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Doug Rux, Community Development Director *DR*
William Harper, Associate Planner *WH*

DATE: July 14, 2008

SUBJECT: ORDINANCE RELATING TO FLOODPLAIN MANAGEMENT;
AMENDING FLOODPLAIN DISTRICT DEFINITIONS AND
PROVISIONS; AND AMENDING TDC 70.020, 70.030-70.040,
70.160 & 70.180 (PTA-08-02)

ISSUE BEFORE THE CITY COUNCIL:

Whether the City Council should amend the Tualatin Development Code (TDC) Chapter 70-Floodplain District. The proposed amendment will revise and add definitions in TDC 70.030 consistent with current FEMA (Federal Emergency Management Agency) and Flood Insurance Administration (FIA) definitions and amend Administration and Flood Hazard Reduction provisions in TDC 70.130-73.190 consistent with FEMA and FIA standards for participation in the National Flood Insurance Program (NFIP).

RECOMMENDATION:

The Tualatin Planning Advisory Committee (TPAC) voted 4-0 on June 12, 2008, recommending that the City Council approve PTA-08-02. The TPAC motion to recommend approval asked staff to consider if additional persons should be named as alternate Flood Plain Administrators and if the City's regulations should require flood venting of garage stem walls. Staff's response to the request are discussed the Executive Summary.

Staff recommends that the City Council consider the staff report and supporting attachments and direct staff to prepare an ordinance granting PTA-08-02 based on the draft ordinance in Attachment A.

EXECUTIVE SUMMARY:

- This matter is a legislative action.
- This matter is a Plan Text Amendment (PTA) to the Tualatin Development Code.
- The applicant is Dayna Webb of the Engineering Division.

- The City of Tualatin Engineering Division was contacted by the Oregon Department of Land Conservation and Development (DLCD) in 2007 in regard to updating Tualatin's Floodplain Ordinance in respect to current Federal Emergency Management (FEMA) and Flood Insurance Administration (FIA) provisions for Flood Hazard Reduction and continued participation in the National Flood Insurance Program (NFIP). DLCD is the official State Coordinating Agency for the Federal Insurance Administration. Because of the City's participation in the NFIP program and adoption of Flood Hazard Reduction standards, properties in the City of Tualatin are eligible for NFIP flood insurance. DLCD recommended revisions to Tualatin's Floodplain District ordinance consistent with current FEMA & FIA standards and definitions.
- The Engineering Division reviewed the DLCD recommendations and prepared the proposed amendment that revises and adds to TDC Chapter 70 Floodplain District definitions in 70.030, designates the City Engineer as the Local Floodplain Administrator, and revises specific standards for Flood Hazard Reduction in TDC 70.170 -70.180. No changes to existing definitions in TDC 1.020 or 31.060 related to manufactured homes and home parks or mobile homes and home parks are proposed.
- The existing Tualatin Floodplain District provisions are based on the 1987 Flood Insurance Study and provide measures and standards for reducing flood losses for development in the 100 year (Tualatin River) Floodplain. The current Floodplain District regulations in Chapter 70 require new construction or substantial improvements of any residential structure to have the lowest floor, including basement, elevated at least one foot above the base flood elevation [TDC 70.180(1)(a)]. The base flood elevation is the elevation of a 100-year flood at a particular location. Nonresidential structures (including mixed-use residential/commercial) are required to meet the one-foot-above-base flood elevation requirement or meet standards for floodproofing the lowest floor (including basement) in TDC 70.180(2)(a-d). Floodproofing includes making the structure watertight and capable of resisting the force of floodwater and effects of buoyancy.
- At a future date (expected in Late-2008 or 2009) the Washington County Flood Insurance Study and Flood Insurance Rate Maps will be updated in respect to the FEMA Floodplain studies currently underway. Tualatin will be required to adopt the updated Floodplain and Flood Insurance measures within six months of a Final Determination Letter issuance. The update will be the subject of a future Plan Amendment application. Attachment D is a Map of the Tualatin River Floodplain.
- The public interest in updating the Floodplain District provisions is retaining eligibility for NFIP Flood Insurance coverage. With local compliance with FEMA and FIA requirements, local landowners can qualify for favorable NFIP risk premiums. Compliance will help ensure that development in the floodplain areas of Tualatin will be constructed in a manner that protects life and property.
- The June 12 TPAC motion to recommend approval of the PTA asked staff to consider if additional persons should be named as alternate Flood Plain

Administrators and if the City's regulations should require flood venting of garage stem walls. The City Engineer currently has authority in TDC Chapter 31 to assign a designee for an authority such as Floodplain Administrator and staff does not recommend adding this authority to the proposed amendment language.

The Building and Engineering Department believes that modifying the specific standards for floodproofing and construction are not required at this time for FEMA and FIA compliance and represents a change in policy for the Floodplain District that requires careful consideration of its impacts on development. Staff agrees with the Building and Engineering Division recommendation to consider venting standards and other policy questions with the Updated FEMA Flood Map adoption process that will commence later this year.

- The proposed PTA language as prepared by staff is provided in Attachment A. The Plan Amendment approval criteria are addressed in the Analysis and Findings section of this report (Attachment C).
- The applicable policies and regulations that apply to the proposal include: TDC 1.032-Amendments; TDC 4.050 Community Growth-Objectives and TDC Chapter 70-Floodplain District. The Analysis and Findings section of this report (Attachment C) considers the applicable policies and regulations.
- Before granting the proposed PTA, the City Council must find that the criteria listed in TDC 1.032 are met. The Analysis and Findings section of this report (Attachment C) examines the application with respect to the criteria for a Plan Amendment.

OUTCOMES OF DECISION:

Approval of the PTA request will result in the following:

1. Revisions to definitions, administrative procedures and Flood Hazard Reduction standards for development in the floodplain in TDC Chapter 70 that will be consistent with current FEMA and FIA provisions.
2. Tualatin and properties in Tualatin will continue to remain subject to current Floodplain District regulations and will remain eligible for National Flood Insurance Program coverage.

Denial of the PTA request will result in the following:

1. The current provisions of the Floodplain District will remain unchanged and will not be consistent with current FEMA and FIA provisions for local participation in the NFIP. Flood Insurance premiums may be higher for properties in Tualatin.

ALTERNATIVES TO RECOMMENDATION:

The alternatives to the staff recommendation to Council are:

- Approve the proposed PTA with alterations.
- Deny the request for the proposed PTA.
- Continue the discussion of the proposed PTA and return to the matter at a later date.

FINANCIAL IMPLICATIONS:

The Applicant is the City of Tualatin Engineering Division. No fee is required. Funds have been budgeted in the Planning Divisions FY07/08 budget to prepare and process City initiated amendments.

PUBLIC INVOLVEMENT:

The proposed amendment is a legislative amendment and no neighbor/developer meeting was held.

- Attachments:**
- A. Proposed Text Amendment Language-TDC 70.030, 70.040, 70.160; & 70.180
 - B. Background Information
 - C. Analysis and Findings
 - D. Map of Floodplain (Unofficial)

DRAFT

DRAFT

Ordinance No. _____

AN ORDINANCE RELATING TO FLOODPLAIN MANAGEMENT; AMENDING
FLOODPLAIN DEFINITIONS AND PROVISIONS; AND AMENDING TDC 70.030,
70.130, 70.140, 70.170 AND 70.180 (PTA-08-02).

WHEREAS upon the application of _____, a public hearing was held before the City Council of the City of Tualatin on July 14, 2008, related to floodplain management, amending floodplain definitions and provisions, and amending TDC 70.030, 70.130, 70.140, 70.170 and 70.180 (PTA-08-02); and

WHEREAS notice of public hearing was given as required under the Tualatin Community Plan by publication on June 26, 2008, in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on July 14, 2008, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing the Council vote resulted in approval of the application by a vote of [X-X]; and

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated July 14, 2008, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit C," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended. Therefore,

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 70.030 is amended to add new definitions, amend existing definitions, or delete the following definitions in alphabetical order to read as follows:

Section 70.030 Definitions.

Critical Facility. Facilities such as hospitals, fire stations, police stations, storage of critical records and similar facilities.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations **or storage of equipment or materials** located within the area of special flood hazard.

Elevated Building. For insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

Existing manufactured home park or subdivision. A manufacturing home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Functionally ~~Water~~ Dependent Use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

~~**Manufactured Home.** A structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, recreational vehicles, and other similar vehicles placed on a site for more than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, recreational vehicles, and other similar vehicles placed on a site for 180 consecutive days or fewer.~~

New manufactured home park or subdivision. A manufacturing home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

~~**Recreational Vehicle.** A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-~~

~~propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.~~

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal to or exceed 50 percent of the market value of the structure before the damage occurred.

Section 2. TDC 70.130 is amended to read as follows:

70.130 Designation of the City Engineer.

The City Engineer is hereby appointed **as the Local Floodplain Administrator** to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

Section 3. TDC 70.140 is amended to read as follows:

70.140 Duties and Responsibilities of the City Engineer.

Duties of the City Engineer shall include but not be limited to those listed in this Section.

(1) Permit Review.

- (a) Review all development permits to determine that the permit requirements of this Chapter have been satisfied.
- (b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of TDC 70.190(1) are met.

(2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with TDC 70.050, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the City Engineer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer TDC 70.180, SPECIFIC STANDARDS, and TDC 70.190 FLOODWAYS.

(3) Information to Be Obtained and Maintained.

- (a) Where base flood elevation data is provided through the Flood Insurance Study or as required under subsection (2), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (b) For all new or substantially improved floodproofed structures:
 - (i) Verify and record the actual elevation (in relation to mean sea level); and
 - (ii) Maintain the floodproofing certifications required by TDC 70.120(3).
- (c) Maintain for public inspection all records pertaining to the provisions of this

Chapter.

(4) Alteration of Watercourses.

(a) Notify adjacent communities and the State coordinating agency (***Department of Land Conservation and Development***) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Interpretation of FIRM Boundaries. Make interpretations when needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in TDC 70.150.

Section 4. TDC 70.170 is amended to read as follows:

70.170 General Standards.

In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(b) All manufactured dwellings must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)

(2) Construction Materials and Methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(d) AH Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(3) Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(c) On-site waste disposal systems shall be located so as to avoid impairment to

them or contamination from them during flooding.

(4) Subdivision Proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed so as to minimize flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

(5) Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (TDC 70.140(2)), applications for buildings permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

Section 5. TDC 70.180 is amended to read as follows:

Section 70.180 Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in TDC 70.050, "BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD," or TDC 70.140(2), "USE OF OTHER BASE FLOOD DATA," the following provisions are required:

(1) Residential Construction.

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.

(b) New public streets providing vehicle access to residences, including residences within mixed use developments, shall be constructed at or above the base flood elevation. Public street rights-of-way in existence as of January 14, 1993, shall not be subject to this requirement.

(c) Below grade crawlspace construction in the floodplain shall comply with all NFIP specifications and applicable Building Code Requirements.

(2) Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water.

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth in TDC 70.140(3)(b).

(d) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(e) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

(3) Manufactured Dwellings. Manufactured dwellings placed or substantially improved within Zones A1-30, AH, and AE shall be on a permanent foundation and shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation and shall be securely anchored to a foundation system in accordance with TDC 70.170(1)(b).

(4) Recreational Vehicles. Recreational vehicles placed or substantially improved within Zones A1-30, AH, and AE shall be on a permanent foundation and shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation and shall be securely anchored to a foundation system in accordance with TDC70(1)(b).

INTRODUCED AND ADOPTED this ____ day of _____, 2008.

CITY OF TUALATIN, Oregon

BY _____
Mayor

ATTEST:

BY _____
City Recorder

ATTACHMENT B

PTA-08-02: BACKGROUND INFORMATION

Pertinent background information obtained from the proposed PTA-08-02 and other supporting documents is summarized in this section.

The applicant is Dayna Webb, Project Engineer of the Engineering Division. The proposed amendment is in response to an Oregon Department of Land Conservation and Development (DLCD) recommendation to update Tualatin's Floodplain Ordinance in respect to current Federal Emergency Management (FEMA) and Flood Insurance Administration (FIA) provisions for Flood Hazard Reduction. Tualatin participates in the National Flood Insurance Program (NFIP), which requires local regulations to reduce flood hazard losses. DLCD is the official State Coordinating Agency for the Federal Insurance Administration. DLCD recommended revisions to Tualatin's Floodplain District ordinance consistent with current FEMA standards and definitions standards in TDC Chapter 70- Floodplain District to comply with current federal flood insurance programs.

The City's existing Floodplain District regulations originated in 1987 (Ordinance 717-87) in compliance with the FIA 1987 Washington County Flood Insurance Study and accompanying Flood Insurance Maps. With adoption of the local Floodplain regulations consistent with the Federal program, properties in the City of Tualatin are eligible for NFIP flood insurance. Minor amendments to definitions, administration and Flood Hazard Reduction measures in Chapter 70 were adopted by ordinance in 1997, 1998 and 2000.

The existing Tualatin Floodplain District provisions provide measures and standards for reducing flood losses for development in the 100 year (Tualatin River) Floodplain. The current Floodplain District regulations in Chapter 70 require new construction or substantial improvements of any residential structure to have the lowest floor, including basement, elevated at least one foot above the base flood elevation [TDC 70.180(1)(a)]. The base flood elevation is the elevation of a 100-year flood at a particular location. Nonresidential structures (including mixed-use residential/commercial) are required to meet the one-foot above-base flood elevation requirement or meet standards for floodproofing the lowest floor (including basement) in TDC 70.180(2)(a-d). Floodproofing includes making the structure watertight and capable of resisting the force of floodwater and effects of buoyancy.

ATTACHMENT C

PTA-08-02: ANALYSIS AND FINDINGS

The approval criteria of the Tualatin Development Code (TDC) 1.032 must be met if the proposed PTA is to be granted. The Plan Amendment criteria are addressed below.

A. Granting the amendment is in the public interest.

The proposed amendment to the Tualatin Development Code (TDC) Chapter 70 Floodplain District (FP) adds or revises definitions of terms associated the Floodplain District such as manufactured or mobile home park or subdivision and such as critical facility and substantial damage; designates the City Engineer as the Local Floodplain Administrator and updates the existing standards for development in the floodplain consistent with current measures and standards required for participation in the National Flood Insurance Program (NFIP). The public interest is for the City of Tualatin to have measures for protecting life and property from natural hazards such as flooding. The public interest is for the City to comply with FEMA (Federal Emergency Management Agency) and FIA (Flood Insurance Administration) requirements to continue participation in the NFIP program, allowing local properties in the floodplain to qualify for federal flood insurance.

TDC Chapter 70 is City of Tualatin's regulations that provide measures and standards intended to minimize public and private losses due to flood conditions. The proposed amendment updates Floodplain District definitions, terms measures and standards for flood protection in the City based on the current requirements of the NFIP. The Floodplain District continues to be the City's regulations for protecting life and property from Flood Hazard and, with the proposed amendment, satisfies the public interest.

The City of Tualatin participates in the NFIP, which allows local properties in the floodplain to qualify for favorable federal flood insurance. With portions of the City of Tualatin located in the Tualatin River 100-year Floodplain, NFIP participation and eligibility for federal flood insurance is a substantial public benefit. To retain eligibility for the NFIP, the City is required to have flood hazard reduction measures and standards in place and to comply with FEMA and FIA requirements. The proposed amendment updates the Floodplain District provisions consistent with the current FEMA and FIA requirements for NFIP participation, meeting the public interest.

Granting the amendment is in the public interest. Criterion "A" is met.

B. The public interest is best protected by granting the amendment at this time.

The proposed amendments to the City's Floodplain District regulations will update definitions, terms, measures and standards in compliance with current FEMA and FIA requirements and continued participation in the NFIP. DLCD has recommended that Tualatin amend the Floodplain District provisions now and prior to the pending Washington County Flood Insurance Study that is expected to be issued in mid-2008 to

2009. The new Flood Insurance Study will update the FEMA Tualatin River flood boundaries and trigger a Letter of Final Determination for cities such as Tualatin. From the Letter of Final Determination date, Tualatin will have six months to adopt the new study and the new FEMA Floodplain and Floodway Boundary Maps. Now is the time to amend the TDC to update the Floodplain District language consistent with current FEMA and FIA requirements. The public interest in complying with DLCD's recommendation and having requirements and provisions for development in the floodplain consistent with FEMA & FIA requirements is protected with adoption at this time.

The public interest is best protected by granting the amendment at this time.

Criterion "B" is met.

C. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

The applicable objective of the Tualatin Community Plan is presented below.

Community Growth Objective 12 [TDC 4.050(12)] "Adopt measures protecting life and property from natural hazards such as flooding, high groundwater, weak foundation soils and steep slopes." The proposed amendments to Chapter 70 Floodplain District will help ensure that new development is constructed in accordance with current FEMA requirements for protecting life and property from flooding damage and continue its eligibility for the NFIP in accordance with current FIA requirements. The proposed amendment is consistent with Community Growth, Objective 12.

The proposed amendment conforms to the applicable objectives of the Tualatin Community Plan.

Criterion "C" is met.

D. The factors listed in Section 1.032(4) were consciously considered:

The various characteristics of areas in the City.

The characteristics of the area of the City affected by this amendment are properties located in the Tualatin River 100-year floodplain. The proposed amendments to the Floodplain District provisions are intended to update the provisions for compliance and consistency with FEMA and FIA requirements and continue the City's participation in the NFIP. Properties in the 100-year Floodplain are eligible for NFIP coverage.

The suitability of the area for particular land uses and improvements.

Development in the Tualatin River floodplain is subject to the regulations of TDC Chapter 70. The particular land uses and improvements must comply with the floodplain District requirements and are eligible for the NFIP that provides flood loss coverage.

Trends in land improvement and development.

There is existing development on property in the floodplain areas of Tualatin and land improvement and development activities on floodplain properties continue subject to the Floodplain District regulations. Properties in the City of Tualatin floodplain are eligible for reduced premiums when participating in FEMA and FIA flood insurance programs. The proposed amendments will ensure up to date compliance with FEMA and FIA requirements and help retain the best possible flood insurance rates for developments in Tualatin.

Property values.

Properties in the floodplain areas of Tualatin are eligible for favorable flood insurance rates due to compliance with FEMA and FIA program requirements. Having lower cost flood insurance is a benefit to property value. The proposed amendments will ensure up to date compliance with FEMA and FIA requirements and help retain the best possible flood insurance rates for developments in Tualatin. This will contribute to higher property values.

The needs of economic enterprises and the future development of the area.

Continued participation in the NFIP allows development to obtain federal flood loss coverage. This is an economic factor for development in the floodplain.

Needed right-of-way and access for and to particular sites in the area.

Not applicable.

Natural resources of the City and the protection and conservation of said resources.

Not applicable.

Prospective requirements for the development of natural resources in the City.

Not applicable.

The public need for healthful, safe, aesthetic surroundings and conditions.

The purpose of the proposed amendment is to update the City's Floodplain District provisions for consistency with FEMA and FIA. The proposed amendment will reinforce the City's flood hazard provisions and help to provide healthful and safe surroundings and conditions.

Proof of a change in a neighborhood or area.

No change is alleged. Not applicable.

A mistake in the plan map or text.

None is alleged.

The factors listed in Section 1.032(4) were consciously considered.

Criterion "D" is met.

E. The criteria in the Tigard-Tualatin School District Facility Plan were considered.

The criteria in the Facility Plan were considered and found to not be applicable to this amendment regarding the floodplain because it does not apply to existing school sites and does not represent a constraint or conflict with land available for future school sites.

F. Oregon Statewide Planning Goals

Of the 14 Statewide Goals, each of the goals were considered and Goals 1-6 and 8-19 were found to not be applicable to this amendment regarding the Floodplain District.

Goal 7. Areas Subject to Natural Disasters and Hazards. Goal 7 is "To protect life and property from natural disasters and hazards." Stream flooding such as can occur in the Tualatin basin is a natural hazard. The proposed amendment will bring the City's Chapter 70 Floodplain District standards into conformance with current FEMA and FIA requirements and provide protection of life and property from flooding hazards. Goal 7 is met.

G. Metro's Urban Growth Management Functional Plan (UGMFP).

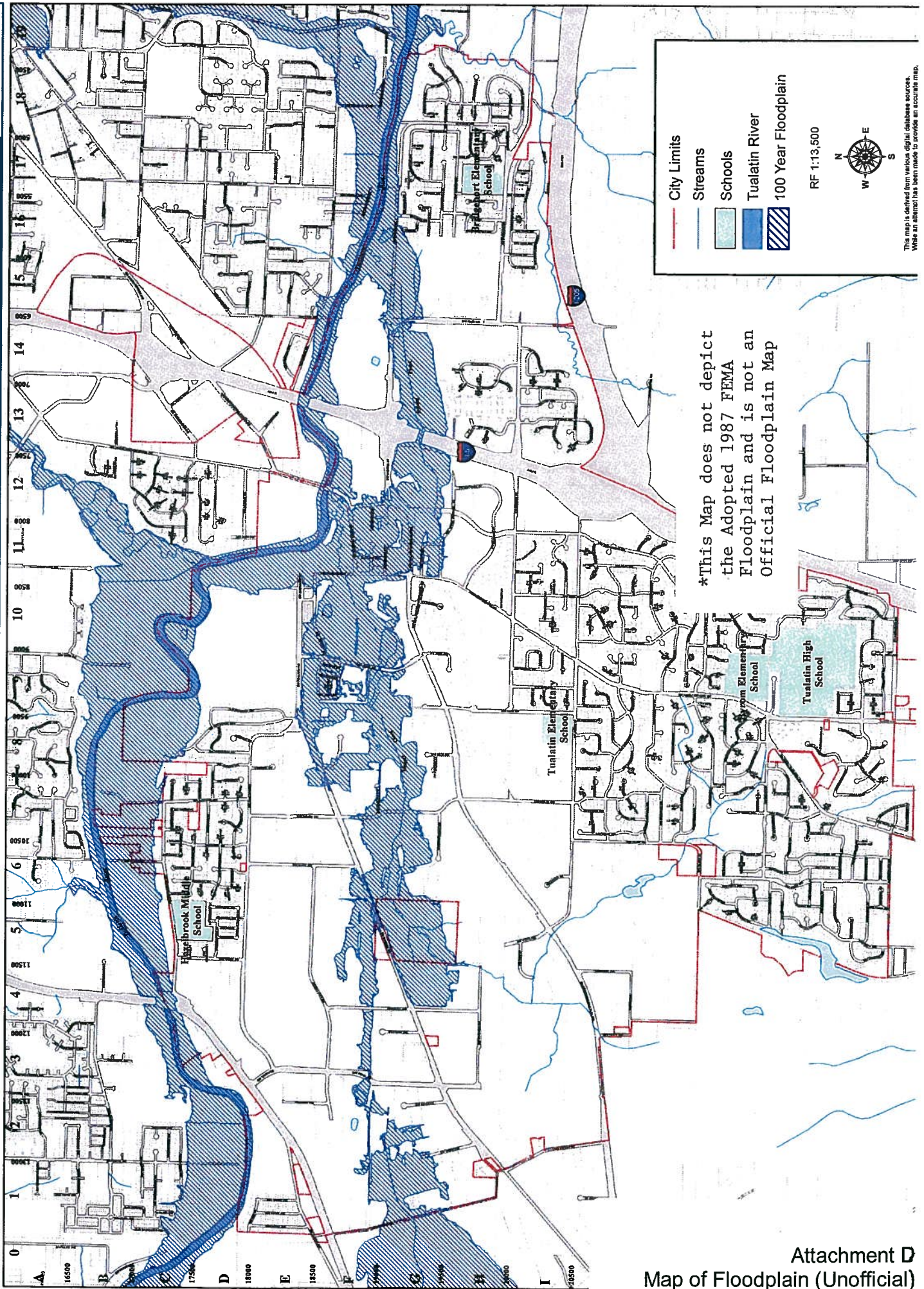
The UGMFP, Title 3 (Water Quality and Flood Management Conservation). The Title 3 Section 4A Flood Management Performance Standards include requirements for development, excavation and fill in Flood Management Areas [Title 3, Section 4(A)(2)(a-f)]. Tualatin's existing flood management measures and standards comply with Title 3. The proposed amendments are minor changes to definitions, terms measures and standards in compliance with FEMA and FIA requirements and do not conflict with the Metro Flood Management Performance Standards.

The proposed language is consistent with and complies with the UGMFP.

H. (Criterion 8) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's Planning Area.

Criterion 8 was considered and found to not be applicable to this amendment regarding the Floodplain District because it does not have any impact on Level of Service on transportation facilities.

100 Year Floodplain





STAFF REPORT

CITY OF TUALATIN

Approved By Tualatin City Council
Date 7-14-08
Recording Secretary MSM

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Doug Rux, Community Development Director *DR*
Colin Cortes, Assistant Planner *C.C.*

DATE: July 14, 2008

SUBJECT: CONDITIONAL USE PERMIT FOR BUILDING MATERIALS AND SUPPLIES, WAREHOUSING AND WHOLESALING, AND HOME IMPROVEMENT MATERIALS AND SUPPLIES RETAIL; TDC SECTION 61.030(1). (CUP-08-02)

ISSUE BEFORE THE CITY COUNCIL:

A request for a conditional use permit (CUP) that would allow the warehousing and wholesale distribution of building materials and retail sales of home improvement materials and supplies in the General Manufacturing (MG) Planning District at 10700 SW Tualatin-Sherwood Road.

RECOMMENDATION:

Staff recommends the City Council consider the staff report and supporting attachments and direct staff to prepare a resolution granting CUP-08-02.

EXECUTIVE SUMMARY:

- This matter is a quasi-judicial public hearing.
- This matter is a conditional use permit (CUP) request.
- The applicant is Mutual Materials, represented by Group Mackenzie.
- The subject property is 5.0 acres and is Tax Lot 2S 1 27AA 2100 located at 10700 SW Tualatin-Sherwood Road in the MG Planning Districts. TriMet through its contractor Stacy and Witbeck, Inc. uses the undeveloped property temporarily to store and deliver rail ties for construction of Washington County Commuter Rail known as the Westside Express Service (WES). Vicinity and tax maps and the site plan are included respectively as Attachments A, B and C. The applicant's materials including a site plan are included as Attachment D.
- Partition PAR-02-03 created the lot in 2002.
- "Building materials and supplies, wholesale sales, and warehousing," is a conditional use per TDC Section 61.030, which incorporates by reference the conditional uses listed in TDC 60.040.

FINANCIAL IMPLICATIONS:

Revenue for conditional use permits has been budgeted for Fiscal Year 07/08.

PUBLIC INVOLVEMENT:

The Applicant conducted a Neighborhood/Developer meeting at the Tualatin Historical Society at 8700 SW Sweek Drive on May 12, 2008, to explain the conditional use permit (CUP) proposal to neighboring property owners and to receive comments. No members of the public or nearby property owners attended the meeting.

- Attachments:**
- A. Vicinity Map
 - B. Tax Map
 - C. Site Plan
 - D. Application Materials and Supporting Documents
 - E. Background
 - F. Analysis and Findings
 - G. Engineering Division memo dated 6/18/2008
 - H. Clean Water Services (CWS) memo dated 6/10/2008

- Retail sales of home improvement materials and supplies is a conditional use per TDC 61.030(1).
- The applicant predicts that 95% of sales will be wholesale with the remaining 5% of sales as retail.
- The home improvement materials and supplies retail sales use allows for showroom and retail sales above the cap established by TDC 61.010.
- The applicant submitted an architectural review application (AR-08-13) for site development approval premised on approval of CUP-08-02.
- The applicant has prepared a narrative that addresses the Conditional Use Permit (CUP) approval criteria (Attachment D). Attachment E is the Background Information and staff has reviewed the application material and included pertinent excerpts in the Analysis and Findings section of this report (Attachment F). Staff recommends no conditions of approval.
- The applicable policies and regulations that apply to the proposed conditional use in the MG Planning District include TDC 7.040(3) Manufacturing Planning District Objectives – General Manufacturing; 32.030 Conditional Uses – Siting Criteria; and, 61.010 General Manufacturing Planning District – Purpose. The Analysis and Findings (Attachment F) considers the applicable policies and regulations.
- Before granting the proposed amendment, the City Council must find that the criteria listed in TDC 32.030 are met: The Analysis and Findings (Attachment F) examines the application in respect to the criteria for granting a CUP.
- The Council has taken no previous land use action related to the subject property.

OUTCOMES OF DECISION:

Approval of the Conditional Use Permit (CUP) request will result in the following:

1. The applicant is allowed to obtain approval for an architectural review (AR) application proposing a showroom area greater than 5% of the gross floor area (GFA) illustrated on the preliminary site plan.

Denial of the Conditional Use Permit request will result in the following:

1. The applicant will not be allowed to construct showroom area greater than 5% of the gross floor area (GFA).

ALTERNATIVES TO RECOMMENDATION:

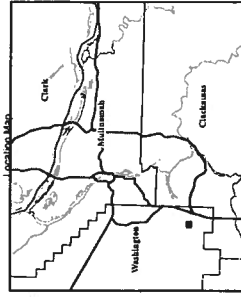
The alternatives to the staff recommendation for the Council are:

- Approve the proposed conditional use permit (CUP) with conditions the Council deems necessary.
- Deny the request for the proposed CUP.
- Continue the discussion of the proposed CUP and return to the matter at a later date.

MUTUAL MATERIALS
300 Foot Buffer
Tualatin, OR

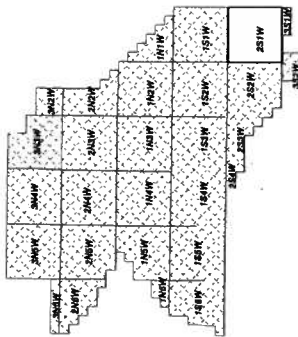


Source Data
 Metro Base Data, November 2007
 Geographic Projection Information
 North American Datum 83
 Lambert Conformal Conic



GROUP
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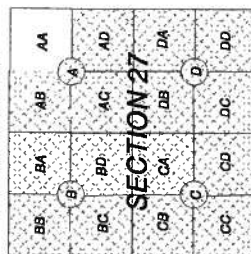




WASHINGTON COUNTY OREGON
NE1/4 NE1/4 SECTION 27 T2S R1W W.M.
SCALE 1" = 100'

36	37	32	33	34	35	36	37
1	6	6	4	3	2	1	6
12	7	6	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	37
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FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
www.co.washington.or.us

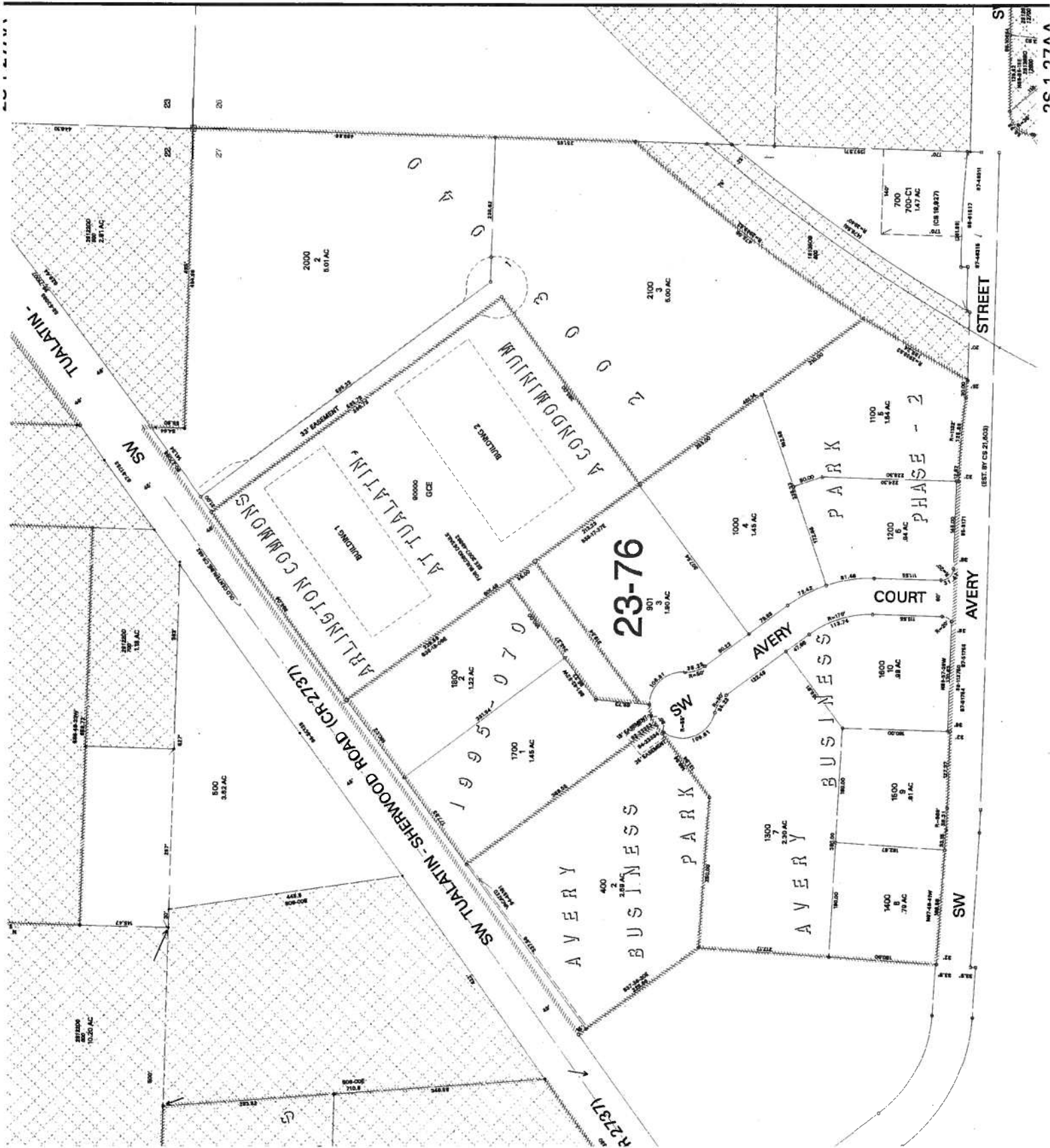


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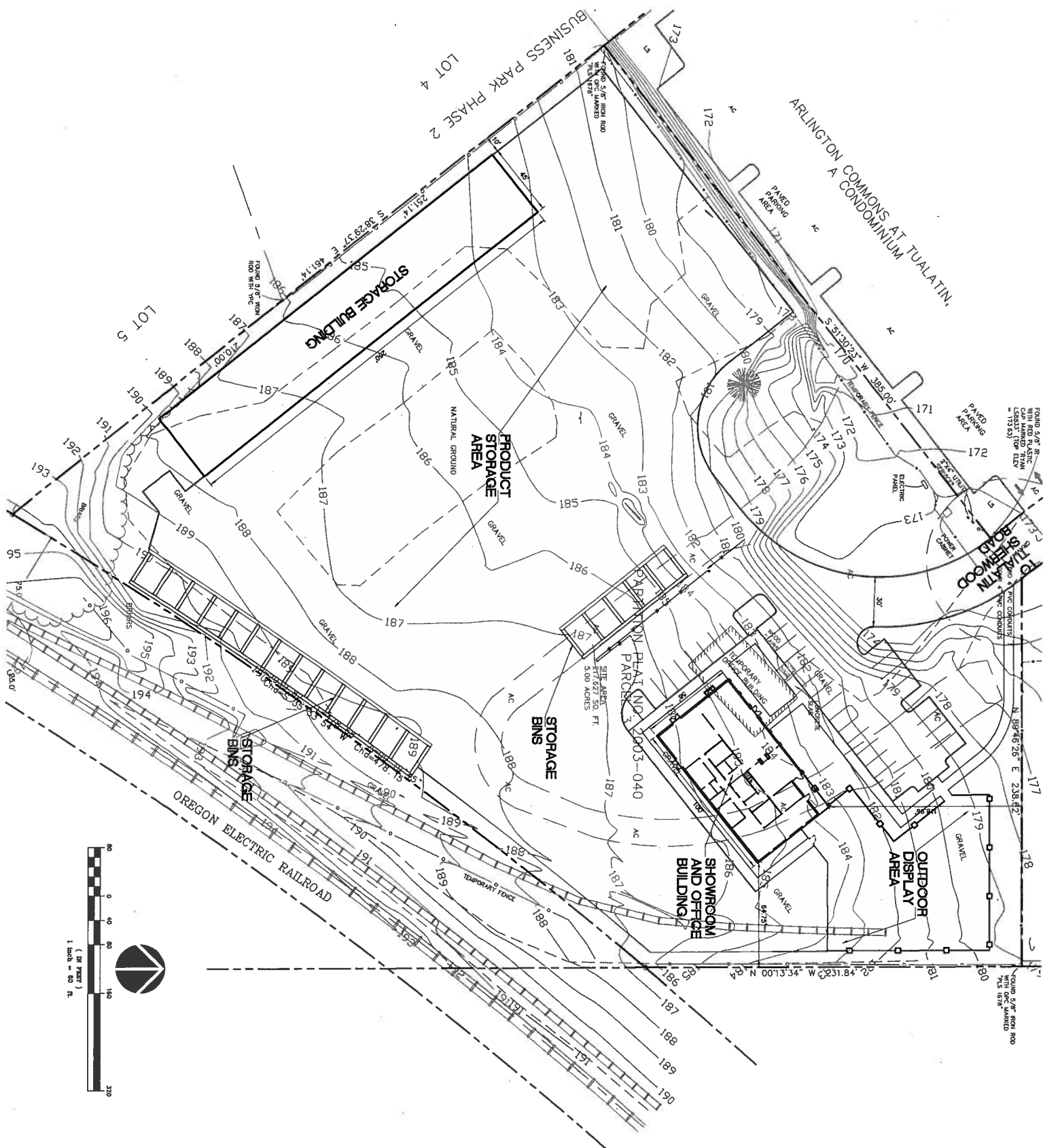


PLOT DATE: June 26, 2007
FOR ASSESSMENT PURPOSES
ONLY - DO NOT RELY ON
FOR OTHER USE

Map areas delineated by either grey shading or a cross-hatched pattern are for reference only and may not indicate the most current property boundaries. Please consult the appropriate map for the most current information.



TUALATIN
061377A




DATE: 5.16.2008

ORIGINAL SHEET: _____

CONDITIONAL USE SITE PLAN

JOB NO: 2080081.00

PROJECT: MUTUAL MATERIALS TUALATIN, OREGON



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GROUP MACKENZIE

Civil Engineering
Structural Engineering
Transportation Planning
Landscape Architecture

Architecture
Interior Design
Land Use Planning

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TABLE OF CONTENTS

I.	Project Summary	1
II.	Introduction	2
III.	Chapter 32 – Conditional Uses.....	4
IV.	Conclusion	10
V.	Exhibits.....	11

**CITY OF TUALATIN
RECEIVED
MAY 16 2008
COMMUNITY DEVELOPMENT
PLANNING DIVISION**

Submittal
Conditional Use Permit

To
City of Tualatin
Planning Division

For
Mutual Materials
Company

Submitted
May 16, 2008

Project Number
2080081.01

I. PROJECT SUMMARY

The applicant requests Conditional Use Permit approval to allow wholesale and minor retail sales of Building Materials and Supplies, and also Conditional Use Permit approval to allow for showroom area greater than allowed in the base zone.

Applicant/Owner: Mutual Materials
605 – 119th NE
Bellevue, Washington 98005
(425) 452-2351
Attention: Kendall Anderegg

Land Use Planner: Group Mackenzie
PO Box 14310
Portland, Oregon 97293
503-224-9560
Contact: Theresa Paulson, Senior Planner/AICP

Cross Streets: SW Tualatin Sherwood Road

Map/Tax Lot of Site: 2S 1W 27AA tax lot 2100

Site Size: 5.00 acres (217,627 SF)
Source: 3/5/08 Survey by Hickman and Associates, Inc.

Zoning: The site is zoned MG (General Manufacturing)

Applicable Criteria: *City of Tualatin Development Code*
Chapter 7 – Manufacturing Districts
Chapter 61 – General Manufacturing Planning District
Chapter 32.030 – Conditional Uses

II. INTRODUCTION

The Mutual Materials Company, which started in 1900 and has 16 locations in the western United States, distributes products to wholesale customers, including mason and hardscape contractors, builders, lumberyards, major home improvement centers and other retail outlets. These products include brick masonry, cultured stone, concrete block, architectural slab and pavers.

Mutual Materials branches typically range from 3 to 5 acres and include a small building for branch administration. In addition, branches include a showroom in which materials are displayed and samples can be checked out to architects or contractors. On occasion, contractors and architects direct their clients to the showroom to select products, and once selected, the products are ultimately purchased by the architect or contractor (wholesale sales). The indoor office and showroom areas are accessory to the primary use of the site, which is wholesale sales, storage and distribution of products. Most products are packaged on wood pallets and stored either within shed structures or outside on paved yard spaces.

Mutual Materials sales are primarily wholesale in nature. On average, the maximum retail sales for a Mutual Materials branch is 5% of total sales, with at least 95% wholesale sales. Because some of Mutual Materials' largest clients are large building supply retail stores, the company does not desire to compete with their customers. Typically any retail sale transactions occur if a building material retail store discontinues a product and additional material is needed to complete a project. Similar to the existing branch operations, the proposed Mutual Materials branch in Tualatin will be primarily wholesale sales, and retail sales of more than 5% are not anticipated.

CURRENT SITE CONDITIONS

The subject property is located south of SW Tualatin Sherwood Road in Tualatin, Oregon. The parcel is also described as Lot #3 of a partition completed by Specht Development in 2002 (PAR-02-03) (see Exhibit B). Lot #1 has since been developed as Arlington Commons, an industrial condominium development, which consists of two buildings. Lot #2 was developed with a Lakeside Lumber facility which processes and warehouses cedar siding products. Previously, the subject site supported the manufacturing of concrete pipes and culverts by Oregon Culvert. The site is currently being used to store and deliver rail ties by METRO as part of the commuter rail project.

The site is bound by Lakeside Lumber and Arlington Commons to the north (MG zone), and an industrial park to the west (MG zone), an undeveloped industrial parcel to the east (MG zone), and railroad tracks and industrial uses to the south (ML zone). Further south, a residential subdivision is located approximately 350 feet from the southwest corner of the property, though separated by an active rail line and existing industrial development (see Exhibit C).

The site is a flag lot with only driveway frontage (i.e., no building frontage) to Tualatin Sherwood Road, which is classified as a major arterial by Washington County. The site accesses Tualatin-Sherwood Road via a driveway shared with Lakeside Lumber and Arlington Commons.

PROPOSED DEVELOPMENT

Though this application is for Conditional Use approval only, a preliminary site plan has been submitted for context (see Exhibit D). If approval of the requested conditional use is granted, it is the intent of the contract purchaser to then submit for Architectural Review approval, similar to the preliminary site plan. The proposed Mutual Materials branch is to include an approximately 6,500 SF building, housing showroom and office space accessory to the primary distribution use. The remainder of the site will be designed for outdoor storage and display, yard area, customer and employee parking, and landscaping. An approximately 11,700 SF, three-sided metal structure is proposed along the west property line. This structure will house materials that must be sheltered from the elements. Storage bins are proposed along the south property line for materials that do not need to be protected from the sun, wind, rain, or snow.

III. CHAPTER 32 – CONDITIONAL USES

The Tualatin Development Code acknowledges that land use planning is dynamic in nature and uses not listed outright may be permitted in certain zones based on many factors. The code allows for a Conditional Use process, in which some uses may be allowed if specific criterion is satisfied. This application is for Conditional Use approval. As such, the following addresses the five criteria for review of Conditional Use applications.

Section 32.030 Criteria for Review of Conditional Uses.

The City Council may allow a conditional use, after a hearing conducted pursuant to TDC 32.070, provided that the applicant provides evidence substantiating that all the requirements of this Code relative to the proposed use are satisfied, and further provided that the applicant demonstrates that the proposed use also satisfies the following criteria:

(1) The use is listed as a conditional use in the underlying planning district.

Response: According to City Staff, the wholesale sales and distribution of masonry and hardscape materials is classified as a Conditional Use in the MG zone. Section 61.030 of the Tualatin Development Code states that all conditional uses listed in the ML zone (Section 60.040) are also considered conditional uses in the MG zone. Section 60.040.b. lists “Building materials and supplies, wholesale sales, and warehousing” as a conditional use. As such, the proposed use is classified as a conditional use in the MG zone.

In addition, the proposed development also warrants Conditional Use approval as the proposed showroom area exceeds the maximum allowance. Section 61.010 declares that a primary purpose of the MG zone is to:

... allow the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 SF.

The proposed development is for wholesale sales, storage and distribution of materials supplied by Mutual Materials, with a minor retail sales component of the products packaged and wholesaled on site, as allowed by this code provision. However, due to the nature of the products, the primary use of the site occurs outside of a building, and the accessory administration and showroom uses occur inside of a building. Therefore, the building itself is a minor component to the primary use of the site. The primary use occupies the majority of the site, including an 11,700 SF storage shelter, outdoor storage bins, large storage yards, truck scales and outdoor product display area. In total, this area is equal to 70% (3.53 acres/153,899 SF) of the total site area. Conversely, the accessory use, which occupies the only building on-site, has a 5,600 SF footprint (is 6,500 SF in total size), or 2.6% of the total site area. As such, the nature of the Mutual Materials facility is unique in that the primary use does not occur within a building, but rather outside of a building.

The criteria for determining allowed retail/showroom area is solely based on gross floor area, regardless if the primary use of the site occurs outside of a building. Therefore, the determination of allowable showroom area based on the proposed building is not reflective of the actual area used for the primary use. Based on the retail provision outlined above, a maximum of 325 SF is permitted for a showroom of a 6,500 SF building. The proposed showroom for the proposed building is approximately 1,350 SF, exceeding the maximum allowed showroom area. However, if the primary uses were to be located within a building (warehouse and distribution), the facility would require a 153,899 SF building, and therefore would be allowed up to 1,500 SF of retail/showroom area. As such, the proposed

1,350 SF showroom area would be allowed under Section 61.010 and Conditional Use approval for the showroom would not be required.

The proposed 1,350 SF showroom area is used primarily by contractors and architects, and also their clients who may be directed to the general showroom to select materials for the contractors to purchase. As such, although the City's code classifies the proposed showroom as 'retail' area, the majority of sales related to the 1,350 SF showroom area is for wholesale sales. On average, Mutual Materials branches do not exceed 5% of retail sales per year, as Mutual Materials is a wholesale distribution company, making the showroom area virtually for wholesale sales. Assuming 5% retail sales, based on a 1,350 SF showroom area, only 67.5 SF is related to retail sales, while the remaining 1,282.5 SF is related to wholesale sales. Based on the provision of Section 61.010, the showroom area for retail sales is less than the maximum allotment of 325 SF for a 6,500 SF building, thereby meeting the intent of the regulation.

Because of the unique nature of Mutual Materials facilities, in which the primary use is located outside of a building, and because the entire showroom area is considered retail space though the branch is anticipated to have no more than 5% retail sales per year (with 95% wholesale sales), this application also requests conditional use approval to allow 1,350 SF of showroom area. This criterion is met.

- (2) *The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.*

Response: The site is well-suited for the proposed wholesale and distribution of building materials. The subject site is relatively flat and has been previously graded for past industrial uses, including the manufacturing of culverts. According to City of Tualatin mapping (Map 72-3), no significant natural resources exist on the property. The site has a relatively rectilinear shape, which is conducive to the wholesale and distribution use. The site does not have building frontage on SW Tualatin Sherwood Road, which is not required for industrial uses. True retail uses require building frontage and high visibility from the adjacent right-of-way. However, the proposed use is an industrial use, and the facility is a destination location. Typical Mutual Materials branches are 3 to 5 acres in size, and the subject site is 5 acres, meeting this requirement. Access to the site and the requisite infrastructure was constructed as a condition of the 2002 partition. The majority of the adjacent properties are already developed with industrial uses.

Based on the site characteristics and surrounding development, the property is well suited for the proposed wholesale sales, storage and distribution of building materials. This criterion is met.

- (3) *The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use.*

Response: The site is well served by an existing transportation system, public facilities and services, as demonstrated below.

Water, Sewer, Storm

A 24" storm line, 12" water line and 8" sanitary sewer line are located within Tualatin Sherwood Road. As a condition of the 2002 partition, water, sewer and storm lines were stubbed to the site, within the private access drive connecting to SW Tualatin Sherwood Road. The existing 8" sewer line, 2" water line and 15" storm lines are suitable for a warehouse and distribution facility with a 1,350 SF showroom. According to the City, there is adequate water and sewer capacity for the proposed use.

Transportation

A Traffic Impact Analysis was conducted as a part of this conditional use application (see attached Traffic Impact Analysis). The analysis studied the potential trip generation for the following three scenarios:

- Development of the site with an allowed use (manufacturing);
- Development of the site with retail use only (building materials) allowed by conditional use; and
- Development of the site with the proposed Mutual Materials branch (wholesale sales, warehouse and distribution of building supplies, and minor retail use and showroom area) allowed by conditional use.

The analysis therefore compared a reasonable worst case development scenario under an existing allowed use, a reasonable worst case scenario for a strictly retail use, and the proposed Mutual Materials development.

Under the current MG zoning, assuming 40% building coverage, the site could house a 78,400 SF manufacturing facility. Based on data contained in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 7th edition, a manufacturing facility of this size would generate 58 PM peak hour trips.

A retail development of a similar use and similar trip generation rate (4.49 trips per thousand square feet (KSF)), Building Materials (Land Use 812) was also studied. A review of ITE data showed the data set upper limit to be 20,000 SF. This is smaller than the 60,000 SF allowed by code, but is more appropriate for a Building Material sales development where the building is secondary to outdoor storage and display. Based on data contained in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 7th edition, a building materials retail development of this size would generate 90 PM peak hour trips.

An existing Mutual Materials site in Vancouver, Washington was surveyed to determine the trip generation rate for the proposed development in Tualatin. The Vancouver branch building is 4,144 SF in size, and has the same wholesale, showroom, and office uses as the proposed Tualatin development; however, the Tualatin development will have a larger gross square footage. The Vancouver site was surveyed on January 31, 2008 for the PM peak hour. A PM peak hour trip generation rate of 6.52/KSF was calculated based on the survey of the existing site. Based on this data, the proposed facility would generate 42 PM peak hour trips.

The following table presents a summary of the trip generation comparison:

TABLE 1 – AM AND PM PEAK HOUR TRIP GENERATION								
Development	Land Use	Square Feet	AM			PM		
			Enter	Exit	Total	Enter	Exit	Total
Manufacturing	140	78,400	44	13	57	21	37	58
Retail (Building Materials)	812	20,000	35	17	52	42	48	90
Mutual Materials		6,500	12	30	42	12	30	42

As shown in Table 1, if the requested conditional use application is approved, the estimated PM peak hour trips is approximately 28% less than a manufacturing development allowed outright in the MG zone. Though this application also requests allowance of a 1,350 SF showroom area and minor retail sales, the proposed

development generates less than half the number of trips that a building supply retail center would generate.

In addition to trip generation analysis, the TIA studied the operation of the intersection of Tualatin-Sherwood Road/SW 112th Avenue/Avery Street intersection, under Washington County jurisdiction. Based on the Washington County's standards for acceptable level of service for signalized intersections, the proposed 6,500 SF Mutual Materials development results in the same level of service as a manufacturing development allowed outright in the MG zone. In addition, the study area intersection meets Washington County operating standards in the existing and build-out year scenarios.

In summary, based on the TIA conducted for this application and an analysis of existing infrastructure, approval of the requested conditional use is consistent with the existing transportation, public facilities, and service infrastructure. This criterion is met.

- (4) *The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district.*

Response: The subject site is bound by MG and ML zoned properties and adjacent to a functioning rail line. All but one of the adjacent properties is developed with industrial uses. The proposed wholesale sales, storage and distribution use is much less intense than uses allowed outright in the MG zone, such as chemical warehouse and distribution, battery manufacturing or a planing mill.

The nearest residential zoned property is approximately 350 feet from the southwest corner of the property, and is separated from the subject property by a railroad right-of-way and existing industrial development (ML zoned property). However, the southern edge of the property will be visible by users of the new commuter rail line. Therefore, the proposed development will incorporate site design features (such as landscaping) to create an attractive southern edge. In an effort to shield the outdoor storage yard from view, outdoor storage bins are located along the south property line, adjacent to the rail right-of-way. A generous 10-foot' landscape buffer, consisting of evergreen shrub material at least 6 feet in height, is anticipated to shield the bins from view. In addition, the 11,700 SF metal shed structure, located along the west property boundary, will have a masonry façade, and may thereby be more aesthetically pleasing than a metal siding structure. The use of the masonry is not only more attractive than a typical metal siding, but it also showcases materials distributed on-site.

Section 61.075 of the Tualatin Development Code requires sound barrier construction to intercept all straight-line lateral paths of 450 feet or less between a residential property and any large doorways or building mechanical devices. Based on the proposed site plan, the storage bins are the only program element located within 450 feet of the nearest residentially zoned property. No overhead doors or building mechanical devices are proposed on the property within 450 feet. As such, no noise sources are located within the noise barrier area.

Trucks are anticipated to periodically enter and exit the storage yard for shipping and receiving of construction materials. These shipping and receiving activities will occur at a distance greater than 450 feet from the closest residentially zoned property. In addition, operations will comply with the City's sound ordinance which requires activity past 9:00 p.m. to be fewer than 60 decibels. Furthermore, it should be noted that a functioning railway and existing industrial development exist between the subject property and the nearest adjacent residential property.

As shown above, potential impacts are mitigated by building orientation, generous landscape buffers, specialty building materials for a shed structure, and compliance with the City's established noise regulations. As such, the proposed development is not anticipated to increase impact greater than what exists with the current surrounding development.

- (5) *The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.*

Response: The Tualatin Development code describes each of the four planning districts and the planning objectives for each district. The following lists the four objectives of the General Manufacturing planning district and how the approval of the proposed conditional use application still meets the intent of the associated objectives.

Section 7.040 Manufacturing Planning District Objectives.

- (3) *General Manufacturing Planning District (MG).*

- (a) *Suitable for light manufacturing uses and also for a wide range of heavier manufacturing and processing activities. Such areas could be expected to be more unsightly and to have more adverse environmental effects. Rail access and screened open storage would be allowed in this area, conforming to defined architectural, landscape and environmental design standards. Also suitable is the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet. Also suitable for the retail sale of home improvement materials and supplies provided it is not greater than 60,000 square feet of gross floor area per building or business and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035.*

Response: The proposed development is for wholesale sales, storage and distribution of materials supplied by Mutual Materials, with a minor retail sales component of the products packaged and wholesaled on site, as allowed by this code provision. Because the wholesale sale, storage and distribution of building materials is listed as a conditional use, and because this application requests approval of a showroom area greater than 5% of the building area, this application requests Conditional use approval (See response to Section 32.030). This criterion is met.

- (b) *The following uses within the General Manufacturing District shall comply with the following size limits established by Metro. Retail sale, retail service and professional service uses shall be no greater than 5,000 square feet of sales or service area per outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following exceptions.*
- (i) *Application of the Industrial Business Park Overlay District (TDC Chapter 69).*
- (ii) *The retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the show-room area, shall be no more than 5% of the gross floor area of the building not to exceed 1,500 square feet.*
- (iii) *Within the Special Setbacks for Commercial Uses Area (TDC 61.035) the retail sale of home improvement materials and supplies is allowed provided it is not greater than 60,000 square feet of*

gross floor area per building or business and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035.

Response: The proposed retail/showroom area is 1,350 SF in size. As such, this criterion does not apply.

- (c) *In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, selected office and retail uses are allowed to provide services to businesses and employees. The purpose is also to allow certain commercial service uses in the Commercial Services Overlay shown in the specific areas illustrated on Map 9-5 and allow selected commercial uses subject to distance restrictions from residential areas and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035.*

Response: The proposed development is not within the Commercial Services Overlay. It should be noted that a portion of the private drive is located within this overlay, but not the proposed use. Therefore, this criterion does not apply.

- (d) *The heaviest manufacturing uses that are environmentally adverse or pose a hazard to life and safety will not be allowed. [Amended Ord. 592-83 §34, 6/13/1983; Ord. 942-95, 3/27/1995; Ord. 1003-98, 4/27/1998; Ord. 1026-99, 8/9/1999; Ord. 1046-00, 2/14/2000 (Ord. 1133-03, 3/24/2003; Ord. 1212-06; 6/26/2006)]*

Response: The proposed warehouse distribution use with minor retail and showroom area is not considered a heavy manufacturing use and will therefore not have significant environmentally adverse effects or significant life and safety hazards. This criterion is met.

IV. CONCLUSION

Mutual Materials, which is a wholesale supplier of brick, concrete masonry and hardscape products, provides materials directly to contractors and masons and also to distributors such as independent lumber yards, major home improvement centers, masonry suppliers and retail outlets. Mutual Materials is proposing a new branch facility, which will be for wholesale sales, storage and distribution of products and will also include a minor retail sales and showroom component. The provision of minor retail sales associated with products warehoused on site is consistent with the provisions of the MG zone.

Due to the unique characteristics of the proposed facility, however, the primary use is located outside of a building. As such, the calculation of the allowed showroom area is disproportionate to the actual primary use as the calculation only considers building area, not actual use area outside of a building. In addition, the calculation does not differentiate between showroom area related to wholesale sales and showroom area related to retail sales. Because the anticipated retail sales for the proposed Mutual Materials branch is estimated less than 5%, the associated retail sale area is proportional to 67.5 SF, well under the provision of Section 61.010.

Per City Staff, the proposed wholesale sales and distribution of brick, concrete masonry and hardscape products are classified as building materials, thereby requiring conditional use approval. However, the subject materials are similar in nature to other materials allowed outright in the MG zone, such as the storage and retail sales of rock and gravel. Therefore, the subject products are not dissimilar to the storage and distribution of materials allowed outright in the MG zone.

Based on the above justification, combined with the fact that the allowance of this use will not disrupt existing development or preclude surrounding property from developing according to the underlying planning districts, approval of the requested Conditional Use application is warranted.

V. EXHIBITS

- A. Land Use Application – Conditional Use Permit
- B. Assessors Map (Map# 18S12E04A)
- C. Site Aerial and Project Boundary Map
- D. Site Plan
- E. Neighborhood Meeting Materials
 - Neighborhood Meeting Letter
 - Mailing List
 - Preliminary Site Plan
 - 300' Buffer Notice Map
- F. Title Report and Deed

Exhibit A
Completed CUP Application

APPLICATION FOR CONDITIONAL USE

City of Tualatin Community Development Department - Planning Division
18880 S.W. Martinazzi Avenue
Tualatin, OR 97062
503-691-3026

Case No. CUP-08-02
Fee Rec'd. \$1225 -
Receipt No. 4633
Date Rec'd. 5-16-08
By Scranford

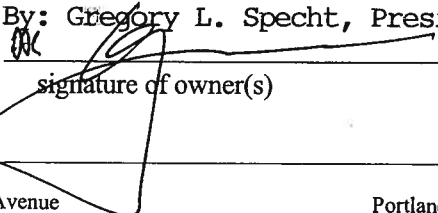
PLEASE PRINT IN INK OR TYPE

Code Section 61.030 Conditional Use to allow Showroom and building material, wholesale sales

Planning District (MG) General Manufacturing

Owner's Name SFP Tualatin, LLC Attn: Joe Curran Phone (503) 646-2202

Owner's Address 15325 SW Beaverton Creek Court
~~15400 SW Milkam Way~~ Beaverton OR 97006
(street) (city) (state) (ZIP)

Owner recognition of application: SFP Tualatin, LLC
an Oregon limited liability company
By: Specht Properties, Inc.
Its Manager
By: Gregory L. Specht, President

signature of owner(s)

Applicant's Name Group Mackenzie Phone (503) 224-9560

Applicant's Address 1515 SE Water Avenue Portland OR 97214
(street) (city) (state) (ZIP)

Applicant is: Owner ☐ Contract Purchaser ☐ Developer ☐ Agent ☒

Other ☐

Contact person's name Theresa Paulson - Senior Planner Phone (503) 224-9560

Contact person's address 1515 SE Water Avenue Portland OR 97214
(street) (city) (state) (ZIP)

Assessor's Map Number 2S127AA Tax Lot Number(s) 2100

Address of Property 10700 SW Tualatin-Sherwood Road Lot Area 5.0 acres

Existing Buildings (Number and Type) None

Current Use Vacant Lot

As the person responsible for this application, I, the undersigned hereby acknowledge that I have read the above application and its attachments, understand the requirements described herein, and state that the information supplied is as complete and detailed as is currently possible, to the best of my knowledge.

Name Theresa Paulson Date 5-16-08 Phone 503-224-9560
Address 1515 SE Water Avenue Portland OR 97214
(street) (city) (state) (ZIP)

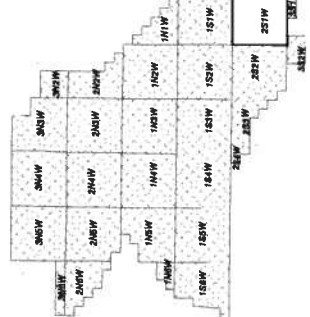
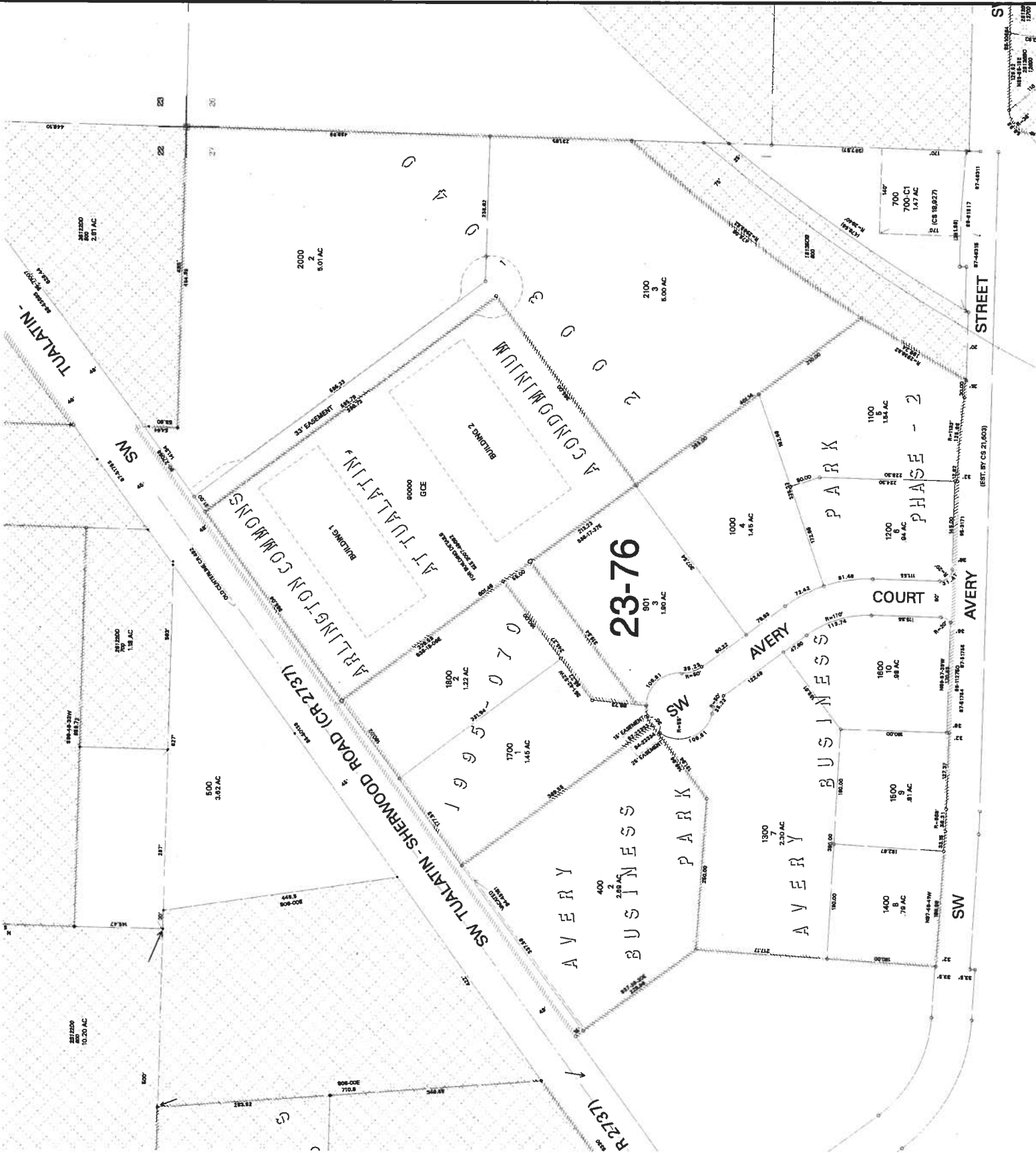
**COMMUNITY DEVELOPMENT
PLANNING DIVISION**

MAY 16 2008

**CITY OF TUALATIN
RECEIVED**

2S 1 27AA

2S 1 27AA



WASHINGTON COUNTY OREGON
NE1/4 NE1/4 SECTION 27 T2S R1W W.M.
SCALE 1" = 100'

36	31	32	33	34	35	36	37
1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	37
1	6	5	4	3	2	1	6

FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
WWW.CO.WASHINGTON.ORG

BB	BA	AB	AA
BC	BD	AC	AD
CB	CA	DB	DA
CC	CD	DC	DD

Cancelled Taxlots For: 2S127AA
600,800,800,800,1901,100,200,1901.



PLOT DATE: June 26, 2007
FOR ASSESSMENT PURPOSES
ONLY: DO NOT RELY ON
FOR OTHER USE
Map areas delineated by either gray shading or a cross hatched
pattern are for reference only and may not indicate the most
current property boundaries. Please consult the appropriate map
for the most current information.

TUALATIN

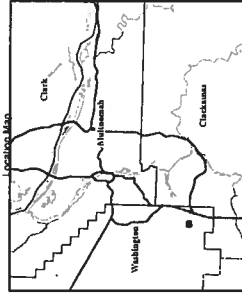
Exhibit C

Vicinity Map

MUTUAL MATERIALS
300 Foot Buffer
Tualatin, OR



Source Data
 Metro Base Data, November 2007
 Geographic Projection Information
 North American Datum 83
 Lambert Conformal Conic



GROUP
MACKENZIE
 PORTLAND, OR | SEATTLE, WA | VANCOUVER, WA
 River East Center 155 West Avenue, Suite 100 | Portland, OR 97244
 Tel: 503.224.8660 | Fax: 503.228.1331 | www.groupmackenzie.com
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Exhibit D
Preliminary Site Plan



PROJECT:
MUTUAL MATERIALS
TUALATIN,
OREGON

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THESE DRAWINGS ARE THE PROPERTY OF
GROUP JACOBUS AND ARE NOT TO BE
USED OR REPRODUCED IN ANY MANNER
WITHOUT PRIOR WRITTEN PERMISSION

DATE:
5.16.2008

ORIGINAL SHEET:
CONDITIONAL
USE
SITE
PLAN

JOB NO:
2080081.00

GROUP
MACKENZIE
Civil Engineering
Structural Engineering
Transportation Planning
Landscape Architecture
Portland OR 360.224.9560
Vancouver WA 360.685.7878
Seattle WA 206.749.9983
Land Use Planning
Interior Design
Architecture

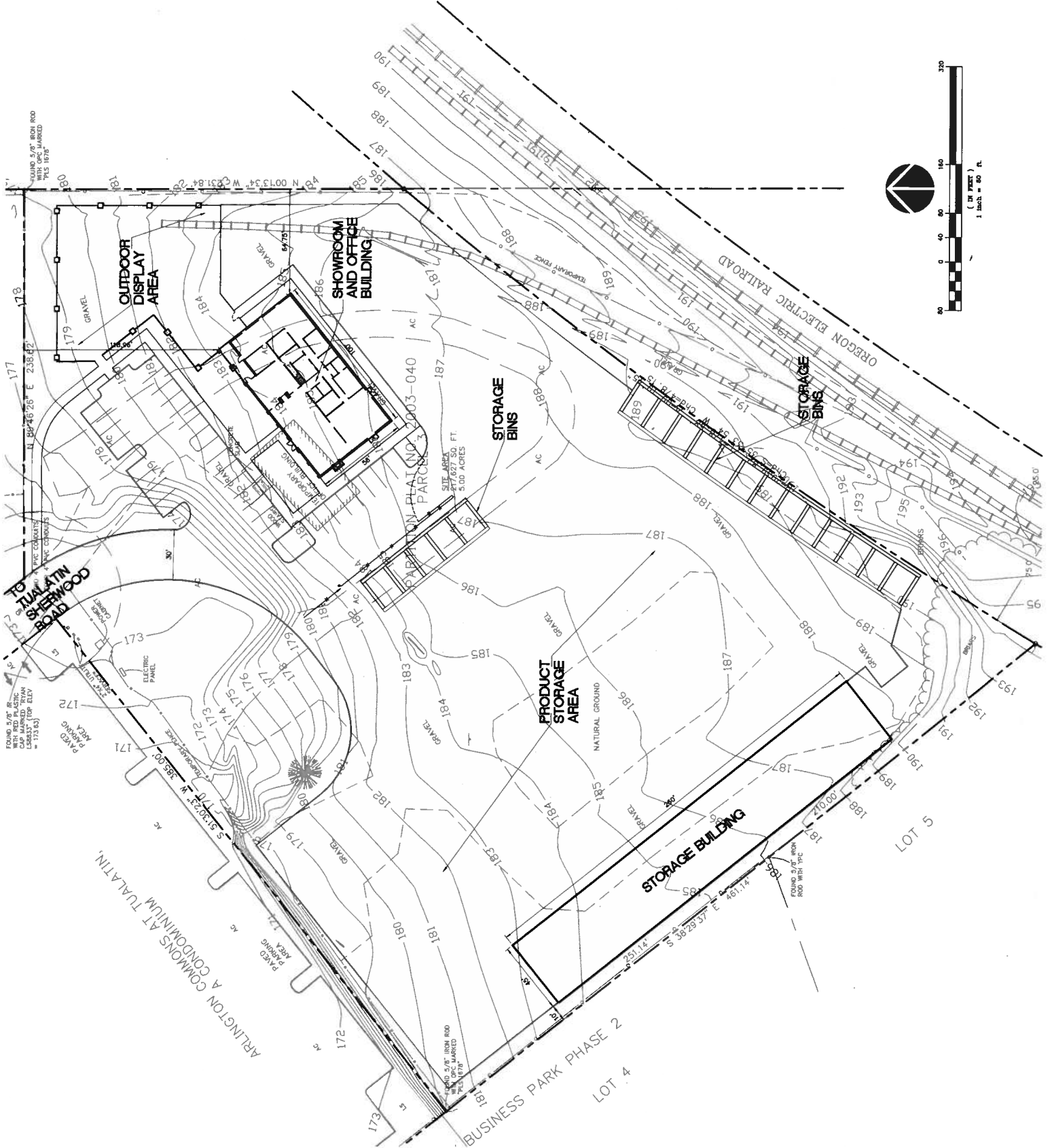


Exhibit E
Neighborhood / Developer Meeting Packet



2S122DD00400
Anthro Corporation
10450 SW Manhasset Dr.
Tualatin, OR 97062

2S122DD00100
BT Property LLC
PO Box 28606
Atlanta, GA 30358

2S127AA01800
Black Lab Investments LLC
PO Box 3850
Tualatin, OR 97062

2S127AA01200
5 Yankee MTN LLC
20460 SW Avery Ct.
Tualatin, OR 97062

2S127A000401
Portland General Electric
121 SW Salmon St.
Portland, OR 97204

2S126B000114
Classic Woodworking
10385 SW Avery St.
Tualatin, OR 97062

2S127AA02000
Lakeside Lumber Inc
10600 SW Tualatin Sherwood Rd.
Tualatin, OR 97062

2S122DD00500
1701 NW 14th LLC
Portland, OR 97209

2S122DD00700 and 500
Pascuzzi Investment LLC
10250 SW North Dakota
Tigard, OR 97223

2S127AA00901
Schwan's Sales Enterprises Inc
PO Box 35
Marshall, MN 56258

2S127AA01100
MS Jones Holdings LLC
10655 SW Avery St.
Tualatin, OR 97062

2S127A000403
City of Tualatin
18880 SW Martinazzi Ave.
Tualatin, OR 97062

2S126B000106
Teton Building LLC
PO Box 3750
Tualatin, OR 97062

Doug Rux, Community Development
Director
18880 SW Martinazzi Ave.
Tualatin, OR 97062

2S122DD00500
1603 NW 14th Ave.
Portland, OR 97209

2S122DD00600
Huston James H.
2268 SE Mulberry Dr.
Milwaukie, OR 97267

2S127AA90000
Arlington Commons At Tualatin
1800 SW First Ave, Suite 100
Portland, OR 97201

2S127AA0100
HG Holdings Inc
PO Box 2090
Tualatin, OR 97062

2S127A000400
ORE-CAL Coca-Cola Bottling CO
1334 South Central Ave.
Los Angeles, CA 90021

2S127AA00700
Gehring Limited Partnership
13215 SW Ash Dr.
Tigard, OR 97223

2S126B000105
Air Liquide America LTD PTSHP
PO Box 460149
Houston, TX 77056

Kaaren Hofman, City Engineer
18880 SW Martinazzi Ave.
Tualatin, OR 97062

Hand-drawn site plan for a detention facility. The plan shows a central rectangular building with a "SCALE" and "BLOCK" area. To the left is a "BIO/DETENTION POND" with a "ROCK TEST AS NEARLY AS POSSIBLE" and a "FENCE". To the right is a "PRODUCT STORAGE YARD" and a "3 SIDED GROUND". The top of the plan shows a "FENCE" and "EXISTING LANE SIDE LUMBER". The bottom of the plan shows a "FENCE" and "EXISTING ARRLINGTON COMMONS". The plan is dated "3/17/08" and includes the text "MUTUAL TULALATIN GROUP MACKENZIE".

3/17/08

MUTUAL TULALATIN GROUP MACKENZIE

EXISTING LARGESIDE LUMBER

MASONRY COLS.

OUTDOOR DISGUISE 15' AREA

MASONRY WALL

BLOCK

SCALE

BIO/DETENTION POND

ROCK TEST AS NEARLY AS POSSIBLE

FENCE

PRODUCT STORAGE YARD

3 SIDED GROUND

CONCRETE

EXISTING SPUR RAIL

EXISTING RAIL

FENCE

CONCRETE

10'

3/17/08

MUTUAL TULALATIN GROUP MACKENZIE

EXISTING LARGESIDE LUMBER

MASONRY COLS.

OUTDOOR DISGUISE 15' AREA

MASONRY WALL

BLOCK

SCALE

BIO/DETENTION POND

ROCK TEST AS NEARLY AS POSSIBLE

FENCE

PRODUCT STORAGE YARD

3 SIDED GROUND

CONCRETE

EXISTING SPUR RAIL

EXISTING RAIL

FENCE

CONCRETE

10'

[illegible]

3/17/08

MUTUAL TULALATIN GROUP MACKENZIE

EXISTING LARGESIDE LUMBER

MASONRY COLS.

OUTDOOR DISGUISE 15' AREA

MASONRY WALL

BLOCK

SCALE

BIO/DETENTION POND

ROCK TEST AS NEARLY AS POSSIBLE

FENCE

PRODUCT STORAGE YARD

3 SIDED GROUND

CONCRETE

FENCE

CONCRETE

EXISTING SPUR RAIL

EXISTING RAIL

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3/17/08

MUTUAL TULALATIN GROUP MACKENZIE

EXISTING LARGESIDE LUMBER

MASONRY COLS.

OUTDOOR DISGUISE 15' AREA

MASONRY WALL

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3 SIDED GROUND

CONCRETE

FENCE

CONCRETE

EXISTING SPUR RAIL

EXISTING RAIL

Hand-drawn site plan for a detention facility. The plan shows a central rectangular building with a "SCALE" and "BLOCK" area. To the left is a "BIO/DETENTION POND" with a "ROCK TEST AS MEASURE" and "FENCE". To the right is a "PRODUCT STORAGE YARD" and a "3 SIDED GROUND". The top of the plan shows a "FENCE" and "EXISTING LANE SIDE LUMBER". The bottom of the plan shows a "FENCE" and "EXISTING SPUR RAIL". The plan is dated "3/17/08" and includes the text "MUTUAL TULALATIN GROUP MACKENZIE".

Hand-drawn site plan for a detention facility. The plan shows a central rectangular building with a "SCALE" and "BLOCK" area. To the left is a "BIO/DETENTION POND" with a "ROCK TEST AS NEARLY AS POSSIBLE" and a "FENCE". To the right is a "PRODUCT STORAGE YARD" and a "3 SIDED GROUND". The top of the plan shows a "FENCE" and "EXISTING LANE SIDE LUMBER". The bottom of the plan shows a "FENCE" and "EXISTING ARRLINGTON COMMONS". The plan is dated "3/17/08" and includes the text "MUTUAL TULALIP GROUP MACKENZIE".

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Hand-drawn site plan for a detention facility. The plan shows a central rectangular building with a "SCALE" and "BLOCK" area. To the left is a "BIO/DETENTION POND" with a "ROCK TEST AS NEARLY AS POSSIBLE" and a "FENCE". To the right is a "PRODUCT STORAGE YARD" and a "3 SIDED GROUND". The plan is surrounded by "EXISTING ARRLINGTON COMMONS" and "EXISTING SPUR RAIL". Other features include "EXISTING LARGESIDE LUMBER", "EXISTING FENCE", "MASONRY COLS.", "OUTDOOR DISGUISE 15' x 15' AREA", "MASONRY WALLS", "BLOCK EX. AREA", "SCALE", "BINS", "EXISTING RAIL", "EXISTING SPUR RAIL", "FENCE", "CONNECT TO EXISTING WORK", "SILVER PINEWOOD", "CART", "10'1", "MASONRY", and "3/17/08".

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3/17/08

MUTUAL TULALATIN GROUP MACKENZIE

EXISTING LANE SIDE LUMBER

CONNECT TO EXISTING WORK

EXISTING ARRLINGTON COMMONS

BIO/DETENTION POND

ROCK TEST AS NEARLY AS POSSIBLE

FENCE

SCALE

BLOCK

PRODUCT STORAGE YARD

3 SIDED GROUND

FENCE

EXISTING SPUR RAIL

EXISTING RAIL

3/17/08

MUTUAL TULALATIN GROUP MACKENZIE

EXISTING LANE SIDE LUMBER

CONNECT TO EXISTING WORK

EXISTING ARRLINGTON COMMONS

BIO/DETENTION POND

ROCK TEST AS NEARLY AS POSSIBLE

FENCE

SCALE

BLOCK

PRODUCT STORAGE YARD

3 SIDED GROUND

FENCE

EXISTING SPUR RAIL

EXISTING RAIL

3/17/08

MUTUAL TULALATIN GROUP MACKENZIE

EXISTING LANE SIDE LUMBER

CONNECT TO EXISTING WORK

EXISTING ARRLINGTON COMMONS

BIO/DETENTION POND

ROCK TEST AS NEARLY AS POSSIBLE

FENCE

SCALE

BLOCK

PRODUCT STORAGE YARD

3 SIDED GROUND

FENCE

EXISTING SPUR RAIL

EXISTING RAIL

**MUTUAL MATERIALS
300 Foot Buffer
Tualatin, OR**



Source Data
Maple Base Data, November 2007
Geographic Projection Information
North Arrow
Unlabeled Contour Lines



GROUP
MACKENZIE
PORTLAND, OR (SEATTLE, WA) VANCOUVER, WA
Riverside Center 1855 West Ave. Suite 100 Portland, OR 97204
T. 503.224.9500 F. 503.228.1233 www.groupmackenzie.com

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Map Created by GSD
File: Mackenzie
Project No: 200801102

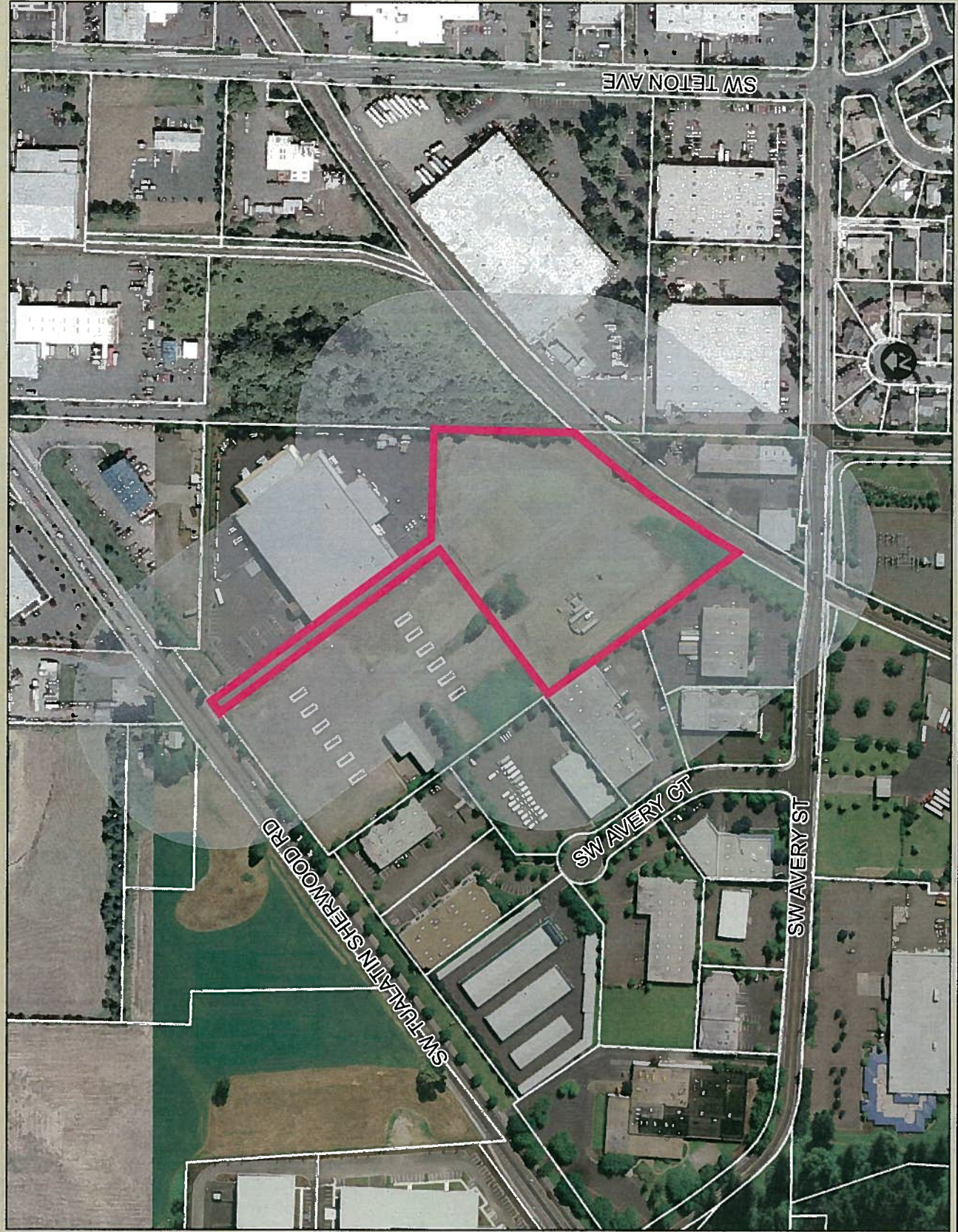


Exhibit F

Property Title

This exhibit is available for viewing in the Community Development Department upon request.

ATTACHMENT E

CUP-08-02: BACKGROUND

This section summarizes pertinent background information from the submitted application for CUP-08-02 and other supporting documents.

The applicant is Kendall Anderegg of Mutual Materials and the consulting land use planner is Theresa Paulson of Group Mackenzie. The subject property of approximately 5.0 acres is a flag lot located at 10700 SW Tualatin-Sherwood Road and is Tax Lot 2S 1 27AA 2100 in an MG Planning District.

The property is undeveloped. Because the property is adjacent to and has a spur from the Portland & Western (P&W) rail line, TriMet through its contractor Stacy and Witbeck, Inc. temporarily uses it to store and deliver rail ties for construction of Washington County Commuter Rail known as the Westside Express Service (WES). Vicinity and tax maps and the site plan are included respectively as Attachments A, B, and C. The application materials including a preliminary site plan are included as Attachment D. The applicant submitted an application for architectural review (AR-08-13) premised upon approval of CUP-08-02.

Exhibit D of the CUP application (Attachment C) presents a preliminary site plan showing improvements including a 6,500 s.f. distribution center with accessory office and showroom space, a partially-enclosed storage shed of 11,700 s.f., outdoor storage areas, an outdoor display area, 31 parking spaces, and a stormwater detention pond incorporating the two trees on site. Review of AR-08-13 will require further information.

ATTACHMENT F

CUP-08-02: ANALYSIS AND FINDINGS

In order to grant the proposed conditional use permit (CUP), the request must meet the approval criteria of Tualatin Development Code (TDC) Section 32.030. The applicant prepared a narrative that addresses the criteria (Attachment D), and staff has reviewed this and other application materials and included pertinent excerpts below:

1. The use is listed as a conditional use in the underlying planning district.

The subject property, Tax Lot 2S 1 27AA 2100, is within a General Manufacturing (MG) Planning District as defined in TDC Chapter 61. "Building materials and supplies, wholesale sales, and warehousing," is a conditional use per TDC Section 61.030(1)(b), which incorporates by reference the conditional uses listed in TDC 60.040(1)(b). "Home Improvement materials and supplies retail sale" is a conditional use per TDC Section 61.030(1), which incorporates by reference the conditional uses listed in TDC 60.040(1)(q). The criterion is met.

2. The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.

- | | |
|-------------|---|
| Size: | The minimum lot size within an MG Planning District is 20,000 square feet (s.f.), approximately 0.46 acres. The subject property is approximately 5.0 acres and exceeds the minimum lot size requirement. The applicant proposes one main building of 6,500 s.f., a partially enclosed outdoor storage shed of 11,700 s.f., and related site improvements. Together the two buildings equate to approximately 8.4% lot coverage. The site size is suitable for the proposed use. |
| Shape: | The subject property is a flag lot created as Lot 3 through partition application PAR-02-03 with access from SW Tualatin-Sherwood Road. The lot shape is suitable for the proposed use. |
| Location: | The proposed use is located within an MG Planning District with access from SW Tualatin-Sherwood Road, a major arterial (Eb&t) as illustrated in TDC Figure 11-1 and described in TDC Table 11-1. The site has a rail spur from the Portland & Western (P&W) rail line. Metro had designated the larger area as an industrial "design type," one of the general categories of urban form and function that is part of the 2040 Growth Concept and specified in Metro Code 3.07.130. The location is suitable. |
| Topography: | As shown in Exhibit E of the application, the site has minor downward slope from southeast to northwest, which does not interfere with the proposed use. |

Improvements: The site plan (Exhibit D) shows improvements including a 6,500 s.f. distribution center with accessory office and showroom space, a partially-enclosed storage shed of 11,700 s.f., outdoor storage areas, an outdoor display area, 31 parking spaces, and a stormwater detention pond. The site can accommodate these improvements.

Natural Features: The only natural features are two existing trees as shown in recent satellite imagery. The detention pond is sited such that they would be preserved and stand at the higher-elevation south/southwest edge of the pond. The proposed use will accommodate the natural features of the site.

Criterion 2 is met.

3. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

Transportation: The site is a flag lot on the south side and accessing SW Tualatin-Sherwood Road, between SW Avery Street/112th Avenue and SW Teton Avenue.

SW Tualatin-Sherwood Road is a Washington County facility designated by the City of Tualatin as a Major Arterial (Eb&t), which would ultimately have a right-of-way width of 98 to 102 feet that includes four travel lanes, a center turn lane, bike lanes, planter strips, and sidewalks. SW Tualatin-Sherwood Road is currently approximately 94 feet wide (49 feet on this development's side) with two 12-foot travel lanes, one center turn lane, 6-foot bike lanes, 6-foot planter strips, and 6-foot sidewalks.

The submitted application included a traffic study that showed adequate capacity (LOS C/D for AM/PM Peaks, respectively) at the intersection of SW 112th Avenue/SW Avery Street/SW Tualatin-Sherwood Road in Post-Development situations of Manufacturing, Retail, or Mutual Materials.

Water, Sanitary, & Storm: Connections to City systems currently exist.

Based on staff review and analysis of the application, the existing and approved public facilities for the site are adequate for the proposed use and the development is timely.

Criterion 3 is met.

4. The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district.

The subject property is in the MG Planning District. Surrounding land uses include:

N:	MG	Arlington Commons industrial condominiums
	MG	Lakeside Lumber, Inc.
E:	MG	undeveloped lot (owned by Air Liquide America, LP to north)
S:	ML	Gearing Property multi-tenant industrial building (across the rail line)
	ML	Teton Building, LLC / Fashion Craft Furniture / Manufacturing, Inc. (across the rail line)
W:	MG	MS Jones Holdings, LLC / HG Holdings, Inc.

There are residences within an RL Planning District within 400 feet of the southwest corner of the subject property. This portion of the Miller Forest subdivision is located southeast across both the rail line and the Gearing Property, south of SW Avery Street, and east of SW 105th Avenue. They are visible on the vicinity map (Attachment A).

Because the surrounding uses are manufacturing and because the residences are separated by a lot with a less intense industrial use allowed within the ML Planning District and three rights-of-way, the proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district.

Criterion 4 is met.

5. The proposal is consistent with plan policies.

The applicable Tualatin Community Plan policies are in TDC Section 7.040(3) Manufacturing Planning District Objectives – General Manufacturing. Other TDC Sections that are not part of the Community Plan yet are relevant include 32.030 Conditional Uses – Siting Criteria and 61.010 General Manufacturing Planning District – Purpose.

General Manufacturing Planning District (MG)

7.040(3)(a) Suitable for light manufacturing uses and also for a wide range of heavier manufacturing and processing activities. Such areas could be expected to be more unsightly and to have more adverse environmental effects. Rail access and screened open storage would be allowed in this area, conforming to defined architectural, landscape and environmental design standards. Also suitable is the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500

square feet. Also suitable for the retail sale of home improvement materials and supplies provided it is not greater than 60,000 square feet of gross floor area per building or business and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035. Please refer below to staff analysis related to the requirement of 61.010.

7.040(3)(b) The following uses within the General Manufacturing District shall comply with the following size limits established by Metro. Retail sale, retail service and professional service uses shall be no greater than 5,000 square feet of sales or service area per outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following exceptions.

(i) Application of the Industrial Business Park Overlay District (TDC Chapter 69).

(ii) The retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, shall be no more than 5% of the gross floor area of the building not to exceed 1,500 square feet.

The proposed uses are not within the Industrial Business Park Overlay District (IBPOD). For 7.040(3)(b)(ii), please refer below to staff analysis related to the requirement of 61.010.

61.010 [General Manufacturing Planning District] Purpose.

The purpose of this district is to provide areas of the City that are suitable for light industrial uses and also for a wide range of heavier manufacturing and processing activities. These uses are expected to be more unsightly and have more adverse environmental effects than the uses allowed in the Light Manufacturing Planning District. Railroad access and screened outdoor storage will be allowed in this district, conforming to defined architectural, landscape, and environmental design standards. The heaviest industrial uses that are environmentally adverse or pose a hazard to life and safety shall be prohibited. The purpose is also to allow the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet. Also suitable for the retail sale of building and home improvement materials and supplies provided it is not greater than 60,000 square feet of gross floor area per building or business and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035.

The proposed light industrial uses are expected to be regarded commonly as unsightly in the absence of landscaping and screening, abut a rail line, and include screened outdoor storage. The main building, the partially enclosed outdoor storage area, and the combined s.f. each does not exceed 60,000 s.f. in area. The proposal is in keeping with the purpose of the MG Planning District.

The applicant explains in Section II “Introduction” on page 3 of the narrative dated 5/16/2008 that, “If approval of the requested conditional use is granted, it is the intent of the contract purchaser to then submit for Architectural Review approval ...” The applicant has submitted an architectural review application (AR-08-13) premised upon approval of CUP-08-02. Of sales, 95% will be wholesale and 5% retail, making retail sales a minor use and *de minimis* in impact. In the Introduction on page 2, the applicant explains that because it sells most of its product to building supply retail stores, it does not compete with them through retail sales and expects most retail sales to be of products discontinued by other such retailers.

The following definitions from 31.060 are useful in further elaborating that the proposed use is virtually wholly for wholesale:

building materials and supplies: wholesale sales and warehousing of materials and supplies including, but not limited to, electrical supplies; fencing materials; building insulation; lumber; prefabricated trusses and structural frames; structural metal materials; masonry supplies; ceramic & stone tile and pavers; painting supplies; plumbing supplies; plywood and wood panel materials; roofing; siding; flooring; window materials; door materials; and tools (handheld and table or stand mounted).

home improvement materials and supplies retail sales: retail sale of home improvement materials and supplies including, but not limited to, electrical supplies; fencing materials; floor coverings such as hardwood, linoleum, vinyl, carpet and rugs; garden tractors and lawn mowers; hardware; building insulation; wall coverings, draperies, window shades, and blinds; lawn and garden supplies; lawn mowers; lighting fixtures; lumber; masonry supplies; painting supplies; plumbing supplies and fixtures; plywood and wood panel materials; siding; roofing; window materials; durable household goods (e.g. refrigerators, stoves and washing machines); and tools (handheld and table or stand mounted).

The applicant provided a preliminary site plan as Exhibit D of the application (Attachment C). The application meets 61.010 because the key points of the narrative and the preliminary site plan show the proposed use is virtually wholly for the wholesale of building materials and supplies as defined above, with a *de minimis* portion of the use for home improvement materials and supplies retail sales as defined above.

The proposal satisfies those objectives and policies of the Tualatin Development Code (TDC) that are applicable to the proposed use.

The proposal is consistent with plan policies.

Criterion 5 is met.

Based on the application and the above analysis and findings, the Mutual Materials conditional use permit (CUP) application meets the criteria of TDC 32.030.

MEMORANDUM

DATE: June 18, 2008

TO: Colin Cortes
Assistant Planner

FROM: Tony Doran, EIT
Engineering Associate

SUBJECT: CUP 08-02 – Mutual Materials - To allow the wholesale, warehousing, and distribution of building materials with a 6,500 sq. ft building and related site improvements. (MG Planning District)
10700 SW Tualatin-Sherwood Road Tax Lot: 2S127AA02100

Colin,

TDC 32.030 (3) The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use.

Transportation: The site is a flag lot on the south side and accessing SW Tualatin-Sherwood Road, between SW Avery Street/112th Avenue and SW Teton Avenue.

SW Tualatin-Sherwood Road is a Washington County facility designated by the City of Tualatin as a Major Arterial (Eb&t), which would ultimately have a right-of-way width of 98 to 102 feet that includes four travel lanes, a center turn lane, bike lanes, planter strips, and sidewalks. SW Tualatin-Sherwood Road is currently approximately 94 feet wide (49 feet on this development's side) with two 12-foot travel lanes, one center turn lane, 6-foot bike lanes, 6-foot planter strips, and 6-foot sidewalks.

The submitted application included a traffic study that showed adequate capacity (LOS C/D for AM/PM Peaks, respectively) at the intersection of SW 112th Avenue/SW Avery Street/SW Tualatin-Sherwood Road in Post-Development situations of Manufacturing, Retail, or Mutual Materials (AR 08-13.)

Water, Sanitary, & Storm: Connections to City systems currently exist.

Please let me know if you have questions, ext 3035.

MEMORANDUM

**CITY OF TUALATIN
RECEIVED
JUN 12 2008
COMMUNITY DEVELOPMENT
PLANNING DIVISION**

DATE: June 10, 2008
FROM: David Schweitzer, Clean Water Services
TO: Colin Cortes, Assistant Planner City of Tualatin
SUBJECT: Review Comments – CUP 08-02, Mutual Materials ANN 68-07

GENERAL COMMENTS

- This Land Use Review by Clean Water Services (District) does not constitute approval of storm or sanitary sewer compliance with the NPDES permit held by the District. The District, prior to issuance of any connection permit, must review and approve final construction plans.
- All provisions of the development shall be in accordance with Clean Water Services (CWS) Design and Construction Standards, Resolution and Order No. 07-20 (R&O 07-20), and the Intergovernmental Agreement between the City and CWS.
- A Stormwater Connection Permit shall be required, as authorized by CWS, prior to construction of sanitary sewer, storm and surface water systems, and plat approval.
- Final construction plans must be reviewed by CWS for conformance with R&O 07-20 and Service Provider Letter for Tax/Map lot 2S1 27AA-02100.
- All public sewer easements shall be reflected on the final construction plans.

SANITARY SEWER

- The lot shall be provided with a direct gravity side sewer (service lateral) connection to a public sanitary sewer mainline in accordance with current CWS Design and Construction Standards. The sanitary lateral shall provide service to only one lot and shall be contiguous with public right-of-way or public sewer easement.
- As proposed connection to the existing 8" sanitary stub in the within the private access drive may be permitted.

STORM DRAINAGE AND WATER QUALITY

- The project shall be provided with a gravity service lateral and individual connection to a public storm conveyance.
- A hydraulic and hydrological analysis of the existing storm conveyance system in accordance with R&O 07-20 is required. A downstream conveyance analysis is required in accordance with CWS Design and Construction Standards. The applicant is responsible for mitigating downstream storm conveyance if the existing system does not have the capacity to convey the runoff volume of a 25-year, 24-hour storm event.
- Per R&O 07-20 chapter 4.05 new impervious surfaces shall require treatment of storm flows through a water quality facility. Facilities serving multiple tax lots and/or receiving flows from the public right of way shall be public facilities and designed to CWS standards.
- Private proprietary storm treatment facilities shall meet R&O 07-20 chapters 4.05.3 (a) and 4.05.8. Public (serving more than one tax lot) underground detention facilities shall not be permitted.
- As proposed this tax lot will be served by an on site water quality/quantity facility.

SENSITIVE AREA

- Clean Water Services Sensitive Area Pre-Screening Site Assessment No. 08-000990, dated April 11, 2008 has been issued for this site; the proposed activity does not meet the definition of development or the lot was platted after 9/9/95 and no site assessment or Service Provider Letter is required.

EROSION CONTROL

- All CWS erosion control requirements shall be met in accordance with R&O 07-20, per the last amendment of the Sensitive Area Pre-Screening Site Assessment.
- A NPDES 1200-C erosion control permit is required for site development with total ground disturbing activities, including all off-site work, exceeding one acre.



Approved By Tualatin City Council
Date 7-14-08
Recording Secretary M. Smith

STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Doug Rux, Community Development Director *DR*

DATE: July 14, 2008

SUBJECT: FISCAL YEAR 2007-2008 TUALATIN TOMORROW VISION
IMPLEMENTATION COMMITTEE ANNUAL REPORT

ISSUE BEFORE THE COUNCIL:

City Council consideration and acceptance of the fiscal year 2007-2008 Tualatin Tomorrow Vision Implementation Committee Annual Report.

RECOMMENDATION:

The Tualatin Tomorrow Vision Implementation Committee met on June 11, 2008 and voted unanimously to forward the annual report to the City Council for acceptance with the following three Council actions requested:

1. Move Parks, Recreation and Natural Areas (PRN) 2.2 *Environmentally Sound Development Practices* to Growth, Housing and Town Center (GHT) as requested by the City Council.
2. Move Parks, Recreation and Natural Areas (PRN) 2.3 *Water Quality Retrofitting* to Growth, Housing and Town Center (GHT) as requested by the City Council.
3. Move Parks, Recreation and Natural Areas (PRN) 10.1 *Art Walk* to Arts, Culture and Education (ACE) as recommended by the Vision Implementation Committee.

Staff recommends that the City Council accept the fiscal year 2007-2008 Annual Report.

EXECUTIVE SUMMARY:

- This is not a public hearing
- On October 24, 2005, the Tualatin City Council reviewed and approved the proposal for the Tualatin Tomorrow community visioning project, including the

scope of work, budget, project schedule and formation of a Tualatin Tomorrow Steering Committee. The project's scope called for delivery of a Vision and Strategic Action Plan, with the Steering Committee as caretakers and custodians of the community visioning process. Seventeen months later, after several rounds of community review and input, refinements and coordination with community partners - including the City - the TTSC presented the Community Vision and Strategic Action Plan to the City Council on June 25, 2007.

- Resolution No. 4694-07 was adopted by the City Council on June 25, 2007 establishing the Tualatin Tomorrow Ad Hoc Implementation Committee to operate for six months.
- The Tualatin Tomorrow Vision Implementation Committee (VIC) was established by the City Council on January 14, 2008 with adoption of Resolution No. 4739-08.
- Contained in the framework document creating the VIC is a requirement to provide an annual progress report to the Tualatin City Council.
- Also contained in the framework is a requirement to recommend, if necessary, proposed changes to the Community Vision and Strategic Action Plan for consideration by the City Council.
- The attached report highlights the activities of the VIC.
- There are no criteria applicable to accepting this annual report.

OUTCOMES OF DECISION:

- City Council acceptance of the Annual Report fulfills the VIC's requirement to prepare and present the report.
- City Council acceptance of the Annual Report establishes concurrence that PRN 2.2 and 2.3 will be moved to the Growth Housing and Town Center focus area and that PRN 10.1 will be moved to the Arts, Culture and Education focus area.
- City Council not accepting the report means PRN 2.2, 2.3 and 10.1 will remain in the Parks, Recreation and Natural Areas focus area.

ALTERNATIVES TO RECOMMENDATION:

Alternatives to the VIC and staff recommendations are to:

- Request the VIC modify the annual report and return at a later date with a new presentation.

FINANCIAL IMPLICATIONS:

Funds and staff resources were allocated to the Tualatin Tomorrow project in fiscal year 2008/2009.



Tualatin Tomorrow - The Vision Continues

Tualatin Tomorrow Vision Implementation Committee Annual Report
Prepared by the members of the Vision Implementation Committee
Presented by Frank Bubenik, Chair & Candice Kelly, Co-Chair

This report is the annual report for the Vision Implementation Committee of Tualatin Tomorrow for the Fiscal Year 07/08.

Background: In February 2006, the City of Tualatin began a community-wide visioning process, called Tualatin Tomorrow. Through extensive and diverse involvement with the entire community, the City developed a Vision Statement and Action Plan that identified what Tualatin's community wants Tualatin to be. This "statement for the future" helped to guide the Tualatin Tomorrow process in identifying the steps towards achieving the vision and is also used to help guide Tualatin's future planning efforts. This project included identifying community issues and analyzing emerging trends, articulating Tualatin's core community values, creating a vision statement and developing strategic action items based on the community's core values and vision.

On January 14, 2008, the Tualatin City Council unanimously passed a resolution authorizing the formation of the Community driven and City supported Vision Implementation Committee (VIC). In addition, a VIC Steering Committee (VICSC) has been formed.

One of the desired outcomes is for Tualatin to be more effective and proactive in dealing with the future and what it might bring, and be in a better position to capture opportunities. Tualatin's citizens, youth, business owners, employers and other community members are the most important participants in this project. City Councilors as well as City Staff work together with the Vision Implementation Committee and its Steering Committee to help guide and manage the process. The Tualatin Tomorrow Visioning project wants to connect with the entire community and wants everyone to have a chance to participate in some way.



Today: The citizen-led Tualatin Tomorrow VIC tracks and facilitates the progress of the Community Vision and Strategic Action Plan to ensure its successful implementation. The VIC membership reflects the broad interests and population of the Tualatin community and includes a representative of any partner that has two or more items in the Action Plan. All VIC and VICSC meetings are open to the public, and appropriate notice is provided in the City Newsletter.

The primary purpose of the VIC is to monitor the progress of the Community Vision and Strategic Action Plan, maintain strategies, encourage implementation of actions, and recommend minor modifications as appropriate.

Our First Fiscal Year: We began this year in January by developing our Fiscal Year 2008/2009 budget. The VIC looked at how to set the tone for the project and what resources were required to accomplish project goals.

We did our homework by asking Hillsboro 2020's John Coulter and Erik Jensen to present an overview of their project. Hillsboro has been engaged in their visioning project for eight years.

They shared with us an overview of what they experienced as both successes and a few minor failures, so we can take what works and avoid some of their pitfalls.

The major priority this first year, as it certainly will be each ensuing year, was the **Annual Event**. The VIC was very pleased with the response to the first **Tualatin Tomorrow – The Vision Continues** event. Over 150 people attended, with partners and volunteers working hard to show what they have been doing for the City of Tualatin and what they intend to accomplish in the future. The event's primary goals were to inform the Community of what is being worked on now and planned for the future as well as to receive the community's input to see if they have new ideas or change requests for the Vision, Strategies and most especially the Actions. The VIC is pleased that we accomplished both of these goals very well. Secondly, we wanted to encourage people to join us in this effort and for them to have a good time. We feel we accomplished these two goals well also. Although our planning time was limited this year, we look forward to doing an even better and more thorough event in 2009.



The VIC closed the fiscal year planning for participation in the Crawfish Festival Parade and the operation of an information booth at the festival itself.

The following is a summary from each Focus Area presented by the lead of each area:



How We Live and Learn – Arts, Culture, Education, Youth and Family Activities (ACE)

This portion provided by Larry McClure, Focus Area Lead

In the next 30 years, this focus area still sees a creative, thriving city that is known for its continued strong education, arts, culture and family activities that offer opportunities for all ages, including youth and seniors. During this first organizational year, partners began to build an inventory of what is already happening in each cluster of action items. Several partners shared their stories at the May gathering. For example:

- **Portland Community College** is offering several enrichment classes and will do more as needed. **WorkSource Tualatin** is assisting post-high school residents with a wide variety of employment readiness activities.
- The **Tualatin Arts Advisory Committee** has been busy with public art selection for the new library opening in July, 2008.
- Arts activities at the **Tualatin Heritage Center** continue to attract more and more visitors, including visual arts, music and the **Lumiere Players**, Tualatin's community theatre.
- **Willowbrook**, Tualatin's summer day camp in art, music, drama and nature awareness based at Browns Ferry Park had its biggest-ever summer in 2007 with 1900 students involved.
- Tualatin's **Teen Program** is guided by an active **Youth Advisory Council** that strives to involve more adolescents in its many activities.

How We Decide - Governance, Leadership and Community Engagement (GLC)

This portion provided by Neta George, Focus Area Lead



This part of the *Vision* involves local government communications with and assisting citizens to understand and deal with the forces of change. The *Vision* was created, the VIC is in place and the first annual report has been presented.

The City is working to promote community involvement and engagement with its citizens by clear communication through the newsletter and website. Improvements to both the newsletter and website are an ongoing process. Aggressive planning is in progress with Wilsonville, and the City is working closely with the State, Metro, Washington and Clackamas counties as well as other agencies addressing issues that effect Tualatin. Regularly scheduled meetings are being held with the **Tigard Tualatin School District** involving school properties and programs which can be shared by both entities.

Tualatin Valley Fire and Rescue is remodeling the Tualatin fire station to improve the seismic features as well as expand the Battalion Headquarters, which can be used during large-scale emergencies. These changes and others being made District-wide will help the Fire District maintain response times to the more than 2,600 emergency incidents per year in Tualatin.

Tualatin is a family-friendly community with multiple activities and amenities in place that support families. The City website has been updated to help implement awareness of programs such as the Youth Council, Crawfish Festival and Celebrate Tualatin. Communications, opportunities of involvement and programs will be expanded.

How We Plan and Grow – Growth, Housing and Town Center (GHT) This portion provided by Gary Rusynyk, Focus Area Lead



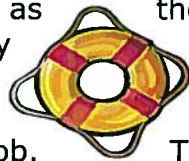
Growth, Housing, and Town Center deals with planning the growth of Tualatin. It involves new development and redevelopment, and encompasses both residential and commercial strategies as identified in the Town Center Plan, Southwest Concept Plan, and Urban Rural Reserve program. This is a unique section, as the City of Tualatin is the lead partner on all but 2 of the 41 actions identified by Tualatin Tomorrow's Vision Plan.

Currently the city is already working on 23 of the action items with another 8 to be addressed within the next 4 years.

These actions are very important to the future of Tualatin as it allows us to plan how Tualatin will look as opposed to leaving growth and development to chance. This will help Tualatin be all it can be.

How We Care For One Another - Health, Safety and Social Services Focus Area (HSS)
This portion provided by Jay Wilcox, Focus Area Lead

Health, Safety and Social Services had a busy couple of months since the vision process began. We partnered with the **Tualatin-Durham Senior Center** for their annual health fair. Many exhibits on health were on display as well as the Lions Club's Hearing and Vision Mobile complex. Haggen's provided pharmacy employees to review prescriptions and answer drug-related questions. Many County agencies had people available to answer questions pertaining to their programs. **Loaves and Fishes**, who operate the Center, did an excellent job. The Vision Implementation Committee plans to continue our support of the Health Fair to make it larger and more universally used next year.



The **Tualatin School House Pantry** increased their board membership to nine (9) individuals and continues to serve over 300 families each month. Their programs now include a Client

Referral Service to other programs in Washington County along with an Adult "Go to Work Clothing Closet." The goal of securing a permanent and accessible location remains their top long-term priority.

The Severe Weather Emergency Plan was put into action this past winter. This plan is triggered if the temperature falls below 32 degrees or over 90 degrees. When those temperatures are met, local churches open their doors to house the homeless. Started in January of 2008, it was a huge success thanks to the response of two local churches. The hope is that more churches will become involved.

The Tualatin Police continue to support the **DARE** and **GREAT** programs and are moving ahead on their portions of the Vision. At our May Event the Chief of Police was available to answer questions.

We continue to reach out to the Faith-based community to try to get them involved in some of our social issues, poverty, homelessness and health care. Six local church leaders have responded positively to our information. The Vision Implementation Committee will continue to contact and hopefully enlarge this participation in the coming year. This next year we will bring our health care resources fully into the program and continue to build on the ground work we laid in our initial phase.

How We Connect With Nature – Parks, Recreation and Natural Areas (PRN)

This portion provided by Connie Ledbetter, Focus Area Lead



Good working relationships have been established among the primary partners of the Parks, Recreation and Natural Areas Focus Area (PRN) including: the **City of Tualatin Community Services Department, Clean Water Services, The Wetland Conservancy**, and the **Tigard-Tualatin School District**. Several meetings have been held with these and other partners to determine the status of individual Action Items.

We have found that many Action Items are either completed or in progress. Here are some examples:

- Existing and potential open spaces and water resources have been inventoried.
- Additional property is being acquired to expand the Greenway Trail.
- The City has sponsored surveys and community meetings investigating construction of a multi-purpose community recreational facility and is now pursuing funding.
- A Dog Park at the north end of Community Park has been proposed, and funding is being pursued.
- Existing open spaces and natural buffers are being expanded and enhanced such as the 30-acre Hedges Creek Marsh/Pascuzzi Pond restoration project by The Wetland Conservancy and Clean Water Services.

At the Tualatin Tomorrow –The Vision Continues event on May 8, 2008, the Parks, Recreation and Natural Areas Focus Area table had a beautiful and informative photographic display about the huge Hedges Creek Marsh restoration project. Handouts were thorough yet understandable and attractive. The display and handouts were the result of productive collaboration between the focus area lead, **The Wetland Conservancy** and **Clean Water Services**.



How We Get Around – Traffic, Transportation and Connectivity (TTC)

This portion provided by Dave Volz, Focus Area Lead

It is a continuous challenge to meet the increasing transportation needs of a growing area while maintaining the quality of life for Tualatin residents. The long term vision for Tualatin's transportation system includes the development of a multi-model transportation system to serve Tualatin residents. Significant progress has been made toward achieving this goal. Most large transportation projects are long lead time, multi-year projects because they are multi-million dollar projects that involve multiple governmental jurisdictions and agencies. Both the Westside Commuter Rail Project and the I5-99W Connector Project are good examples of this. Each of these projects has been part of Tualatin's transportation plan for many years. Construction on the commuter rail service is nearly complete and will go into service this Fall. Planning for an I-5 to 99W Connector was restarted several years ago. Recently the traffic studies for this project were completed, and a preliminary set of alternatives were identified. After additional public input is obtained and additional environmental and engineering studies are completed, the decision makers will select the best overall alternative, resulting in a modification of the Regional Transportation Plan, access to sources of funding, and eventual implementation.

There are some transportation projects that are under the discretion and control of Tualatin, but funding constraints limit the scope and size of these projects. Recently Tualatin approved a plan to implement a Photo Red Light program to enhance traffic enforcement and safety. The first intersection to be monitored with this equipment will be at the SW 72nd Avenue and Lower Boones Ferry Road intersection at Bridgeport Village. Work continues on a number of other Tualatin transportation projects that are designed to improve safety and traffic flow. These projects include improvements to various Tualatin streets and roads, enhanced traffic signaling, and railroad crossing improvements. Work also continues on solutions to mitigate or eliminate commuter train horn noise.



Requests for Council Action:

1 - Three Action Changes: This first year the VIC has its first minor Action changes request to the Council and they are as follows:

- **PRN 2.2 - Environmentally Sound Development Practices.** "Research and promote best practices to design, develop and manage new construction in a more environmentally sound manner."

This to be moved to **GHT** – suggested by the Council and unanimously approved by the full VIC on May 14, 2008.

- **PRN 2.3 - Water Quality Retrofitting.** "Develop or expand existing land use regulations to require retrofitting of commercial/industrial and community water systems to improve water quality. Retrofitting could include actions such as:
 - Requiring a larger percentage of native vegetation versus lawns
 - Replacing impervious surfaces, for example using pavers
 - Creating bioswales."

This to be moved to **GHT** – also suggested by the Council and unanimously approved by the full VIC on May 14, 2008.

- **PRN 10.1 - Art Walk.** "Consider expanding sites/venues and scope of Tualatin's Art Walk to incorporate information on natural historical events and on local cultural history of significance."

This to be moved to **ACE** – this was unanimously approved at the VIC meeting on May 14, 2008 with input from the PRN Focus Area Lead and Buck Braden of the Tualatin Arts Advisory Committee and a VIC member.

2 - Presentation Time at City Council Meetings: Starting in August 2008, the VIC would like to present a short update to the City Council summarizing actions occurring in a particular focus area. Future presentations would occur every other month following August 2008. This would allow all six areas to present updates to the Council over the course of a year.

Looking Forward: The VIC plans on increasing our outreach into the community, increasing local business support of the project and encouraging continued involvement from project volunteers. We have a new Partner who has just joined us, **Providence Health and Services**. They will be opening a new facility in Tualatin this year called **Providence Bridgeport Center**. We plan to continue our pursuit of additional partners not yet involved, for example, Washington County. We also will be working on laying the foundation for evaluating action completion and developing a mechanism for quantitative input for changes to the Action Plan.



As amended
Approved By Tualatin City Council
Date 7-14-08
Recording Secretary M. Smith

STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Brenda Braden, City Attorney *BB*

DATE: July 14, 2008

SUBJECT: AN ORDINANCE RELATING TO RENTAL HOUSING MAINTENANCE STANDARDS; ESTABLISHING A RENTAL HOUSING UNIT MAINTENANCE FEE; ADDING A NEW CHAPTER, 6-13 TO THE TUALATIN MUNICIPAL CODE; AND PROVIDING AN EFFECTIVE DATE

ISSUE BEFORE THE COUNCIL:

Council will consider whether to adopt the ordinance that would establish rental housing maintenance standards and a rental housing maintenance fee.

RECOMMENDATION:

Staff recommends that the Council discuss the ordinance and either adopt the ordinance as written, amend the ordinance, or provide direction to staff with any additional proposed changes.

EXECUTIVE SUMMARY:

At the City Council meeting on June 23, 2008, the City Council discussed the first presentation of this ordinance and directed staff to bring back the ordinance that addresses Council's concerns. The resulting substantive changes are as follows:

- Under Section 3, (1)(a), clarifies that licensed residences excepted from this ordinance must be licensed by a governmental entity; occupancy by a member of a fraternal or social organization in such organization's structure has been deleted; and a new (i) clarifies that dwelling units occupied by the property owner are exempt from the coverage of this ordinance.
- The definition of dwelling unit is now "a single unit providing complete independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation."
- For purposes of overcrowding, square footage of a single-family residence shall be based on the County assessor's records for that building. For multi-family

residences, the square footage will be determined from the City's or owner's records for the dwelling unit or, if disputed, remeasured by the City.

- Section 5 (9) adds a requirement that each dwelling unit have at least one off-street parking space.
- Section 5 (10)(f) has been rewritten to refer to unsightly items that are normally stored in a garage or storage shed without listing them.
- The standard for a public servant or employee to make a complaint has been changed to a "reasonable belief".
- The ordinance now allows any person to make a complaint for suspected overcrowding as well as for exterior violations.
- A new provision in Section 8 (4)(d) would allow the City to revoke a rental license and prevent occupancy of the property until all fees were paid.

OUTCOMES OF DECISION: If Council adopts the ordinance, the City would go forward with enforcing the new rental standards. If the Council decides to not adopt the ordinance, rental properties would not be required to meet any additional City standards for habitability or occupancy.

FINANCIAL IMPLICATIONS: It is expected that the ordinance will be implemented initially within the currently budgeted funds. Once the rental fees are collected, it is expected that those fees will cover the costs of the program.

Attachments: A. Ordinance

ORDINANCE NO. 1264-08

AN ORDINANCE RELATING TO RENTAL HOUSING MAINTENANCE STANDARDS; ESTABLISHING A RENTAL UNIT MAINTENANCE FEE; ADDING A NEW CHAPTER, 6-13, TO THE TUALATIN MUNICIPAL CODE; AND PROVIDING AN EFFECTIVE DATE

THE CITY OF TUALATIN, OREGON ORDAINS AS FOLLOWS:

Section 1. A new section, 6-13-005, is added to the Tualatin Municipal Code to read as follows:

Purpose. The purpose of this code is to provide minimum habitability criteria for rental residential properties to safeguard the health, safety and welfare of the owners, occupants and users of residential rental buildings; and to protect the health, safety and welfare of neighbors to these properties.

Section 2. A new section, 6-13-010 is added to the Tualatin Municipal Code to read as follows:

Oregon Residential Landlord and Tenant Act. This code is intended to supplement the habitability standards of the Oregon Residential Landlord and Tenant Act, ORS 90.100 et seq.

Section 3. A new section, 6-13-020, is added to the Tualatin Municipal Code to read as follows:

Applicability and Exceptions.

- (1) Except as provided in subsection (2) of this section, these standards apply to all buildings or portions of buildings that are legally used for human habitation, including manufactured dwelling units, and are covered by a rental agreement.
- (2) Unless created to avoid the application of this chapter, this chapter does not govern the following arrangements:
 - (a) Residence at a governmentally licensed institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious or similar service;
 - (b) Occupancy of a dwelling unit for not more than 90 days by a purchaser prior to the scheduled closing of a real estate sale or by a seller following the closing of a sale, as permitted under the terms of an agreement for sale of a dwelling unit or the property of which it is a part;

- (c) Transient occupancy in a hotel or motel;
- (d) Occupancy by a squatter;
- (e) Vacation occupancy;
- (f) Occupancy by an employee of a landlord whose right to occupancy is conditional on employment on the premises;
- (g) Occupancy by an owner of a condominium unit or a hold of a proprietary lease in a cooperative;
- (h) Travel Trailers and or Motor homes in an approved Travel Trailer or Motor home park;
- (i) A dwelling unit occupied by the owner.

Section 4. A new section, 6-13-030 is added to the Tualatin Municipal Code to read as follows:

Definitions. As used in this chapter, the following definitions apply:

- (1) **“Agent”** means a person authorized by another to act on his or her behalf.
- (2) **“Building Code”** means the currently adopted editions of all State of Oregon Specialty Codes.
- (3) **“Dwelling unit”** means a single unit providing complete independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation.
- (4) **“Habitable room”** means a room used for sleeping, living, cooking or dining purposes, but excludes closets, pantries, bath or toilet room, hallways, laundries, storage spaces, utility rooms and similar spaces.
- (5) **“Group SR Occupancies”** means special residences where personal care is administered and that are licensed by, or subject to licensure by, or under the authority of the Oregon Department of Human Resources or other State agency.
- (6) **“Major disassembly” or “major disrepair”** with respect to a vehicle means that the vehicle is missing tires or wheels, body parts, or is otherwise visibly unable to be driven.
- (7) **“Occupant”** means a person who has possessory rights in, or control over rental premises or occupies rental premises.
- (8) **“Owner”** means the holder of legal or equitable title to real property.
- (9) **“Public employee” or “public servant”** means a person who is an officer or employee of a municipality, county, state or federal agency, or school district or special district.

- (10) **“Rental Agreement”** means all agreements, written or oral, concerning the use and occupancy of a dwelling unit and premises.
- (11) **“Tenant”** means someone who pays rent or is party to the rent payment to use residential property that is owned by someone else. Pay shall include all forms of compensation.
- (12) **“Vehicle”** means any device in, upon or by which a person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means but does not include a manufactured structure.

Section 5. A new section, 6-13-040 is added to the Tualatin Municipal Code to read as follows:

Standards. All rental units and buildings subject to this chapter shall meet the following standards:

- (1) Structural integrity.
 - (a) Roofs, floors, walls, foundations and all other structural components shall be capable of resisting any reasonable stresses and loads to which these components may be subjected.
 - (b) Structural components shall be of materials allowed and/or approved by the Building Code.
- (2) Plumbing.
 - (a) Plumbing systems shall be installed and maintained in a safe and sanitary condition and shall be free of defects, leaks and obstructions.
 - (b) Plumbing components shall be of materials allowed or approved by the Building Code.
- (3) Heating.
 - (a) There shall be a permanently installed heat source with the ability to provide a room temperature of 68 degrees Fahrenheit three feet above the floor, measured in the approximate center of the room, in all habitable rooms.
 - (b) All heating devices or appliances shall be of an approved type and maintained for proper working condition.
 - (c) Ventilation for fuel-burning heating appliances shall be as required by the Building Code.
- (4) Weatherproofing.
 - (a) Roof, exterior walls, windows and doors shall be maintained to prevent water leakage into the living areas that may cause damage to the structure or its contents or may adversely affect the health and safety of an occupant.

- (b) Repairs must be permanent, not temporary, and shall be through generally accepted construction methods.
- (5) Electrical.
 - (a) All buildings used for residential purposes shall be connected to an approved source of electric power and every habitable room shall contain at least one operable outlet and one operable light fixture or two operable outlets.
 - (b) Every public hallway and stairway shall be adequately lighted.
- (6) Ceiling Heights.
 - (a) Habitable rooms shall have a clear ceiling height of 7'6" in existing buildings except as provided in (b) of this subsection.
 - (b) In basements, attics and half-stories, ceiling height may be not less than 7'0".
- (7) Smoke Detectors.

Smoke detectors shall be installed and maintained in working order in each sleeping room, in the immediate vicinity of a sleeping room or area designated for sleeping and on each floor.
- (8) Overcrowding.

No dwelling shall be overcrowded. For purposes of this section square footage of a single-family residential building will be based on the county assessor's office square footage for that building. For multifamily residential buildings, the square footage shall be as shown on the property owner's documents or the City's records. If the property owner disagrees with the square footage of a single family home, including condominiums and town homes, duplex, triplex or quadplex, the property owner must contact the county assessor's office and fill out a square footage correction form. If the property owner disagrees with the square footage of a multi-family apartment complex, the City Manager or designee may measure the dwelling unit for a fee, which is listed on the City fee schedule. To determine a dwelling unit's occupancy load, the City will divide the square footage by 225 and round any fraction to the next higher number. For example, seven occupants would be allowed in a 1,500 square foot residence.
- (9) Parking. Refer to Section 73.370(2) of the Tualatin Development Code.
- (10) The exterior of the structure, including lawns and adjacent rights-of-way shall be maintained and be free of nuisances as follows:
 - (a) The property shall be free from any accumulation of rubbish or garbage or appliances. Approved containers for rubbish and garbage shall be provided by the owner. All residential rental owners will insure that tenants have trash service within 14 days of occupying the rental property. Rubbish, garbage, recycle and yard

debris containers may be placed on the street for pick-up no sooner than 24 hours before pick-up and shall be removed within 24 hours after pick-up.

- (b) No vehicle shall be kept on the residential property for more than 5 days in a state of major disassembly, disrepair, or in the process of being stripped or dismantled, unless it is stored within a permitted structure.
- (c) All exterior surfaces, including but not limited to, window frames, doors, doorframes, cornices, porches, siding and trim shall be maintained in good condition. If rental property is remodeled, receives damage or graffiti the owner must insure that the repair matches the existing exterior of the structure.
- (d) Tarps or similar material shall not be used as a repair or replacement for a customary building component, such as a roof, siding or door, except for emergency repairs or temporary replacements during construction. However, no such use may exceed 90 days in any 12-month period and cannot violate the Building or Fire Codes.
- (e) Lawns, shrubbery, and trees (this includes front, side, and backyards along with landscape planters along the street frontage and reverse frontage); lawns (areas containing turf grasses) shall be kept trimmed to a height of not more than the ten inches or below the height at which the generation of pollen and the forming of seeds occurs, excluding ornamental grasses used in landscaping. Shrubby shall be kept trimmed and free from undergrowth of weeds, vines, and saplings, and free from dead or dying branches. Trees shall be kept pruned and free from dead or dying limbs and branches hazardous to persons or property. Landscaped areas may not contain weeds that reach a height of more than ten inches or below the height at which the generation of pollen and the forming of seeds occurs. Dead or decaying organic material from lawns, weeds, trees, or shrubs must be removed regularly.
- (f) Unsightly Items that would be normally be stored in a garage or storage shed may not be stored outside of such a garage, shed or sight-obstructing structure for more than seven days.
- (g) Motor vehicles, trailers, recreational vehicles parked on the property shall be parked in the driveway or in a paved or graveled area parallel to the driveway farthest from the residence. No additional portion of a landscaped area shall be paved that is in front of the single family or multifamily residence unless specifically allowed in another section of the Tualatin Development Code.
- (h) Sidewalks, driveways, patios, and other paved surfaces will be kept clean and properly maintained.
- (i) Fences will be maintained and in good condition. Damage to fences must be repaired within 14 days.

- (j) Graffiti standards are located in the Tualatin Municipal Code Chapter 6-10, which may be enforced under this section.
- (11) Enforcement. The City Manager or designee is authorized and directed to enforce this chapter.

Section 6. A new section, 6-13-050 is added to the Tualatin Municipal Code to read as follows:

Complaint Process – Tenant

- (1) Before the City will investigate a complaint made by a tenant, the tenant shall submit his or her written complaint to the owner or agent at least 10 days before the complaint is submitted to the City to afford the owner or agent the opportunity to correct the problem. If the owner or agent does not respond or fails to correct the problem the tenant may submit the complaint to the City.
- (2) A complaint must be in writing and may be filed in person, by mail, by email, or fax. The complaint shall contain at least the following information:
 - (a) The name of the person filing the complaint. No complaints may be submitted anonymously;
 - (b) The name of the owner and/or the owner's resident agent;
 - (c) The address of the alleged violation;
 - (d) A complete description of the alleged violation;
 - (e) A copy of the written notice of the alleged violation that has been sent by the tenant to the landlord.
- (3) The person who files the complaint must be a party to the current rental agreement covering the property or an agent of this party.
- (4) The City shall process complaints using the following procedure:
 - (a) Confirm that the complainant has standing to file the complaint;
 - (b) Confirm that the allegation in the complaint, if proven to be true, would be a violation of this chapter;
 - (c) Confirm that the owner or agent has had seven days, plus three days for mailing in accordance with ORS 90.150, since the tenant mailed the written notice to the owner, to respond to the complaint;
 - (d) Once the requirements in subsections (a), (b) and (c) are confirmed, notify the owner that the complaint has been submitted to the City. For purposes of this ordinance, all notices and orders will be sent by first class and certified mail to the address on file at the county assessor's office unless otherwise directed by the owner.

Complaint Process – Public Servant or Public Employee

- (1) If the City Manager or designee, other public servant or public employee observes apparent violations or has a reasonable belief that violations of

TMC 6-13-040 exist on the property, the City Manager or designee may institute an investigation.

- (2) If the public employee files a complaint, the employee must have been conducting an activity for his or her normal course of work at the time the employee noticed the violation of TMC 6-13-040.

Complaint Process – All Others

- (1) All persons may file complaints for suspected overcrowding and the exterior standards listed in TMC 6-13-040 (9) of these rental housing maintenance standards.
- (2) A complaint must be in writing and may be filed in person, by mail, by email, or fax. The complaint shall contain at least the following information:
 - (a) The name of the person filing the complaint. No complaints may be submitted anonymously;
 - (b) The address of the alleged violation;
 - (c) A complete description of the alleged violation.
- (3) The City shall process complaints using the following procedure:
 - (a) Confirm that the complaint alleges a violation of an exterior or overcrowding standard;
 - (b) Confirm that the allegation in the complaint, if proven to be true, would be a violation of this chapter;
 - (c) Once the requirements of (a) and (b) are confirmed, notify the owner that the complaint has been submitted to the City.

Section 7. A new section, 6-13-055 is added to the Tualatin Municipal Code to read as follows:

- (1) If the City Manager or designee observes apparent violations or has a reasonable belief that violations of this chapter exist on the property, the City Manager may institute an investigation.
- (2) Investigations.
 - (a) Upon confirmation that the requirements in TMC 6-13-050 have been met, staff will conduct an investigation to confirm the validity of the complaint.
 - (b) If the City determines that the complaint is not valid, the City will close the case and notify all parties of the closure.
 - (c) If the City determines that the complaint is valid, City staff will issue a notice and order.
- (3) Inspection and Right of Entry. When it may be necessary to inspect to enforce the provisions of this chapter, City staff may enter the building or

premises at reasonable times to inspect or perform the duties imposed by this chapter as follows:

- (a) If the building or premises are occupied, staff shall present credentials to the occupant and request entry.
- (b) If the building or premises are unoccupied, staff shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry.
- (c) If entry is refused, staff may follow the procedures to obtain an administrative warrant to inspect the premises.

(4) Notices and Orders.

- (a) For valid complaints, staff shall issue a notice and order to the owner. The notice and order shall include the following:
 - (i) The street address;
 - (ii) A statement that the City staff has found the premises to be in violation of this chapter as alleged in the complaint;
 - (iii) A description of the violation;
 - (iv) A statement advising the owner that if the required repairs are not completed within seven days, plus three days for mailing from the date of the notice and order, then staff will:
 - (A) Record the notice and order against the property;
 - (B) Coordinate the issuance of a citation to the owner to appear in Municipal Court;
 - (C) Initiate action to recover all City costs associated with processing the complaint, investigation and the resolution of the issue.
 - (v) A statement advising the owner that he or she may appeal the final municipal court decision to the circuit court;
 - (vi) The date by which repairs must be completed and a reinspection scheduled.
- (b) The notice and order, and any amended or supplemental notice and order, shall be posted on the premises and shall be served on the owner by first class mail.
- (c) A residential rental property that receives the same complaint within 12 months of a previous complaint that was noticed and ordered may receive a citation without going through subsection 4 of TMC 6-13-055. This does not apply if the ownership of the property has changed by 100%.

(5) Failure to Comply.

If the owner does not comply with the notice and order by the specified date, staff will:

- (a) Issue a citation to the owner to appear in Municipal Court;
- (b) Record the notice and order against the property with all recording costs to the responsibility of the owner;

- (c) Initiate an accounting for all costs associated with processing the complaint, investigation and the resolution of the issue, then proceed with City procedures to collect these costs from the owner.
- (6) Penalties.
 - (a) A person who is found guilty by the court of violating a provision of this chapter shall be punished by a fine not to exceed \$500.00 per violation. Each day that a violation exists constitutes a separate violation.
 - (b) Upon conviction of a third offense in a 12-month period for a single family rental residence or a duplex, or conviction of a sixth offense in a 12-month period for a multifamily property, the court shall order the owner to appear at a City Council meeting.
- (7) Appeals.

The Municipal Court decision may be appealed to the Circuit Court within 10 days of the final order of the Municipal Court.

Section 8. A new section, 6-13-060, is added to the Tualatin Municipal Code to read as follows:

Fees.

- (1) To offset the costs to the City associated with the enforcement of this code, an owner shall obtain a business license to operate residential rental property from the City and pay an annual fee of \$10.00 per dwelling unit covered by a rental agreement.
- (2) Although the following are subject to the standards, enforcement procedures, and other requirements established in this Chapter, the following unit types are exempt from the fee payment requirements of the section:
 - (a) Rentals with a recorded deed restriction that require units to be rented affordably to households at or below 50% of the Area Median Income;
 - (b) Rentals under contract with a public agency that requires the rental to be inspected at least annually and verifies that the dwelling is rented to a low income household; and
 - (c) Rentals designated as senior or disabled housing by a public agency.
- (3) The owner is responsible for paying the annual fee upon written notice.
- (4) Failure to pay the fee as required will subject the owner to the following actions:
 - (a) A penalty of \$100.00 will be assessed to the owner for each unpaid per unit fee if the annual fee is not paid by the date specified in the written request for payment.

- (b) The City will initiate appropriate action to collect the fees due and all costs associated with the collection process will be assessed to the owner.
- (c) Appropriate action may include placing a lien on the property.
- (d) The property owner's residential rental property license may be revoked by the City Council. Until all such fees are paid for the subject property and the license reissued, the property shall not be rented, leased, or occupied.

Section 9. Sections 1 through 7 of this ordinance shall take effect 30 days after the ordinance is approved. Section 8 of this ordinance shall take effect January 1, 2009.

INTRODUCED AND ADOPTED this 14th day of July 2008.

CITY OF TUALATIN, Oregon

BY _____

Mayor

ATTEST:

BY _____

City Recorder

APPROVED AS TO LEGAL FORM

Brenda L. Braden

CITY ATTORNEY